

HCS HB 2926 -- LIABILITY OF PRIVATE CONTRACTORS

SPONSOR: Parker

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Transportation by a vote of 8 to 1 with 3 members voting present.

The following is a summary of the House Committee Substitute for HB 2926.

This bill provides that when acting within the scope of a government contract and performing work in accordance with the plans and specifications approved by the Department of Transportation (MODOT), private contractors, subcontractors, engineers, and the employees of the private contractors, subcontractors, and engineers have sovereign or governmental tort immunity to the same extent as MODOT, including any limitations on awards for liability.

The bill provides that contractors and subcontractors will not be liable for claims arising from the design, condition, or maintenance of a transportation project occurring after a contract is executed but before construction begins on the project site.

During performance of physical construction activities, a contractor, subcontractor, or employee thereof will be deemed an agent of the State for purposes of sovereign or governmental tort immunity when performing work within the scope of the contract and in material compliance with plans, specifications, or directives approved by MODOT applicable to the condition alleged to have caused injury and without authority to materially deviate from such plans or directives.

Upon acceptance of the project, including partial acceptance, substantial completion, or final acceptance by MODOT, liability for the design, condition, maintenance, and performance of the completed project will rest with the public entity, and the contractor or subcontractor will not be liable for claims arising thereafter.

The immunity provided by the bill will not apply to negligent or reckless acts, failure to materially comply with approved plans and specifications, or acts or omissions outside the scope of the contract.

This bill is similar to HCS HB 1067 (2025).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

**PROPOSERS:** Supporters say that private contractors have been sued after being awarded a contract but before beginning work on a project for MODOT due to no fault of their own. People shouldn't be liable for conditions they didn't create. Supporters say the bill doesn't want to protect negligence, just ensure that businesses, especially small businesses, aren't the target of lawsuits when they are not the relevant party. To receive this protection, contractors have to follow the plans and specifications given by MODOT. They build to the standards required, which are good, national standards. Later, an accident occurs, and the business is sued even though they did the work as they were directed to by the government. Engineering firms are named as third parties in lawsuits more often now than previously, leading to higher insurance rates, lower payouts, and the exclusion of certain firms. Safety is already one of the highest values of these contractors and they exercise great care in dangerous situations. Contractors are sued because they're seen as deep pockets even though they don't decide the design of the projects. The lack of tort protection is costing the public contracts.

Testifying in person for the bill were Representative Parker; American Council of Engineering Companies of Missouri; American Property Casualty Insurance Association (APCIA); Missouri Civil Justice Reform Coalition, Inc.; Nolan (Chip) Jones, Emery Sapp & Sons, Inc.; Darryl Winegar, Capital Paving & Construction; Kristen Walker, Walker Professional Insurance; Dale Williams, Missouri Asphalt Pavement Association; and SITE Improvement Association.

**OPPOSERS:** Those who oppose the bill say that no lawsuit can succeed currently for situations arising before the project. A contractor has absolutely no duty to the public before they've begun working, so they can't have committed a breach of that duty. The referenced cases were appropriately dismissed. There are limitations on recovery from the government. The bill wants to extend those limits to private contractors when there are a lot of accidents on I-70 right now with the additional construction. MODOT shouldn't even have this immunity, and it shouldn't be expanded. If you take consequences away from big companies with big bankrolls, you destroy their incentive to act

right. Normal people don't get immunity, so we should hold companies accountable. If you do the right thing and follow safety procedures, you don't need immunity. Money doesn't bring people back, but the cap on recovery is heart-wrenching. The caps on recovery also shift the burden of massive healthcare costs for grievous injuries or permanent disability cases to the taxpayer via Medicaid and Medicare.

Testifying in person against the bill were Tonya Musskop; Andrew Mundwiller; Michael Brown; Arnie Dienoff; Michael Campbell, Missouri Association of Trial Attorney's; and Aimee Wahlers.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.