

FIRST REGULAR SESSION

HOUSE BILL NO. 838

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVE.

1551H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 537.600, RSMo, and to enact in lieu thereof two new sections relating to civil liability.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.600, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 537.116 and 537.600, to read as follows:

537.116. Any entity that is exempt from taxation under 26 U.S.C. Section 501(c)(6) shall be immune from any action wherein an injury arises from a parade sponsored or cosponsored by the entity.

537.600. 1. Such sovereign or governmental tort immunity as existed at common law in this state prior to September 12, 1977, except to the extent waived, abrogated, or modified by statutes in effect prior to that date, shall remain in full force and effect; except that, the immunity of the public entity from liability and suit for compensatory damages for negligent acts or omissions is hereby expressly waived in the following instances:

(1) Injuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of motor vehicles or motorized vehicles within the course of their employment;

(2) Injuries caused by the condition of a public entity's property if the plaintiff establishes that the property was in dangerous condition at the time of the injury, that the injury directly resulted from the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee of the public entity within the course of his employment created the dangerous condition or a public entity had actual or constructive notice

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 of the dangerous condition in sufficient time prior to the injury to have taken measures to protect
16 against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges
17 that he was damaged by the negligent, defective, or dangerous design of a highway or road,
18 which was designed and constructed prior to September 12, 1977, the public entity shall be
19 entitled to a defense which shall be a complete bar to recovery whenever the public entity can
20 prove by a preponderance of the evidence that the alleged negligent, defective, or dangerous
21 design reasonably complied with highway and road design standards generally accepted at the
22 time the road or highway was designed and constructed.

23 2. The express waiver of sovereign immunity in the instances specified in subdivisions
24 (1) and (2) of subsection 1 of this section are absolute waivers of sovereign immunity in all cases
25 within such situations whether or not the public entity was functioning in a governmental or
26 proprietary capacity and whether or not the public entity is covered by a liability insurance for
27 tort. **However, a public entity shall not be deemed to waive sovereign immunity in any**
28 **action wherein an injury arises from a parade sponsored or cosponsored by the public**
29 **entity.**

30 3. The term "public entity" as used in this section shall include any multistate compact
31 agency created by a compact formed between this state and any other state which has been
32 approved by the Congress of the United States.

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