

# STATE OF NEW YORK

7387

2017-2018 Regular Sessions

## IN ASSEMBLY

April 25, 2017

Introduced by M. of A. GJONAJ -- read once and referred to the Committee on Judiciary

AN ACT to amend the highway law, in relation to liability of state for damages

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 58 of the highway law, as amended by chapter 1110  
2 of the laws of 1971, is amended to read as follows:

3 § 58. Liability of state for damages. The state shall [~~not~~] be liable  
4 for damages suffered either by any person or to his or her property from  
5 defects in state highways[~~, except between the first day of May and the~~  
6 ~~fifteenth day of November~~] on such highways as are maintained by the  
7 state under such system as the commissioner of transportation may adopt  
8 pursuant to section twelve of this chapter, but the liability for such  
9 damages shall otherwise remain as now provided by law, notwithstanding  
10 the construction or improvement and maintenance of such highways by the  
11 state under this chapter; but nothing herein contained shall be  
12 construed to impose on the state any liability for defects in bridges  
13 over which the state has no control. The state shall reimburse any  
14 person for damages suffered by him or her or to his or her property  
15 which were incurred on such highways as are maintained by the state.  
16 Property damages shall be limited to the value of the repairs made by a  
17 certified automotive technician. The burden of proof lies with the  
18 person who suffered the damage to show the state was aware of and  
19 acknowledged the defect and failed to correct it within a reasonable  
20 amount of time. For purposes of this section, reasonable amount of time  
21 shall mean a maximum of two weeks. Within the limits of incorporated  
22 villages the state shall maintain a width of pavement equal to the width  
23 of pavement constructed or improved at the expense of the state, if a  
24 state highway, the location of the state's portion of such roadway with-  
25 in said incorporated limits to be determined by the center line of the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD10927-02-7

1 roadway as shown on the plans on file with the department of transporta-  
2 tion and the state shall be liable for damages to persons or property  
3 only when such damage shall occur as a result of the defective condition  
4 of the portion of improved highway as above described.

5 § 2. No reimbursement required under section 58 of the highway law, as  
6 amended by section one of this act, shall be paid prior to the effective  
7 date of this act.

8 § 3. This act shall take effect immediately.