STATE OF NEW YORK

6654

2017-2018 Regular Sessions

IN ASSEMBLY

March 10, 2017

Introduced by M. of A. GJONAJ, RAIA, JEAN-PIERRE -- 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:

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

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

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

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limits to be determined by the center line of the roadway as shown on the plans on file with the department of transportation and the state shall be liable for damages to persons or property only when such damage shall occur as a result of the defective condition of the portion of improved highway as above described.

§ 2. This act shall take effect immediately.