

STATE OF NEW YORK

10639

IN ASSEMBLY

March 13, 2026

Introduced by M. of A. P. CARROLL -- read once and referred to the
Committee on Transportation

AN ACT to amend the highway law, in relation to the state's liability
for damages caused by defects on state roads

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

1 Section 1. This act shall be known and may be cited as the "State
2 Accountability For Equitable Road Oversight And Defect Solutions Act" or
3 the "SAFE ROADS Act".

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

6 § 58. Liability of the state for damages. [~~The state shall not be
7 liable for damages suffered by any person from defects in state high-
8 ways, except between the first day of May and the fifteenth day of
9 November on such highways as are maintained by the state under such
10 system as the commissioner of transportation may adopt pursuant to
11 section twelve, but the liability for such damages shall otherwise
12 remain as now provided by law, notwithstanding the construction or
13 improvement and maintenance of such highways by the state under this
14 chapter, but nothing herein contained~~] Subject to the provisions of
15 subdivision two of this section, the state shall be liable for injuries
16 or damage sustained by persons while traveling on state highways, if the
17 same are caused by defects within the limits of the constructed traveled
18 roadway; provided, however, that the state shall not be liable for inju-
19 ry or damage sustained:

20 (a) because of the want of a railing in or upon any state highway;

21 (b) upon the sidewalk of any state highway;

22 (c) during the construction, reconstruction or repair of any state
23 highway;

24 (d) by reason of snow or ice on any state highway, if the place at
25 which the injury or damage was sustained was at the time of the accident
26 otherwise reasonably safe and convenient for travelers; or

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

LBD15223-02-6

1 (e) as a result of damage to a bridge on a state highway caused by a
2 vehicle with a load exceeding forty-five hundred pounds in weight exclu-
3 sive of the team and vehicle.

4 2. The state shall have no liability under this section unless the
5 plaintiff establishes that:

6 (a) the property was in a dangerous condition at the time of the inju-
7 ry or damage, that the injury or damage was proximately caused by the
8 dangerous condition, that the dangerous condition created a reasonably
9 foreseeable risk of the kind of injury or damage which was incurred; and

10 (b) that either:

11 (i) a negligent or wrongful act or omission of an employee of the
12 state within the scope of such employee's employment created the danger-
13 ous condition; or

14 (ii) the state had actual or constructive notice of the dangerous
15 condition for at least fifteen days prior to the injury or damage to
16 have taken measures to protect against the dangerous condition.

17 3. For the purposes of paragraph (b) of subdivision two of this
18 section:

19 (a) the state has actual notice of a dangerous condition if it had
20 actual knowledge of the existence of the condition and knew or should
21 have known of its dangerous character; and

22 (b) the state has constructive notice of a dangerous condition only if
23 the plaintiff establishes that the condition had existed for such a
24 period of time and was of such an obvious nature that the state, in the
25 exercise of due care, should have discovered the condition and its
26 dangerous character.

27 (c) on the issue of due care, admissible evidence includes but is not
28 limited to evidence as to:

29 (i) whether the existence of the condition and its dangerous character
30 would have been discovered by an inspection system that was reasonably
31 adequate (considering the practicability and cost of inspection weighed
32 against the likelihood and magnitude of the potential danger to which
33 failure to inspect would give rise) to inform the state whether the
34 highway was safe for the intended use of the highway; and

35 (ii) whether the state maintained and operated such an inspection
36 system with due care and did not discover the condition.

37 4. Nothing in this section shall be construed to impose on the state
38 any liability for defects in bridges over which the state has no
39 control.

40 5. Within the limits of incorporated villages the state shall maintain
41 a width of pavement equal to the width of pavement constructed or
42 improved at the expense of the state, if a state highway, the location
43 of the state's portion of such roadway within said incorporated limits
44 to be determined by the center line of the roadway as shown on the plans
45 on file with the department of transportation and the state shall be
46 liable for damages to persons or property only when such damage shall
47 occur as a result of the defective condition of the portion of improved
48 highway as above described.

49 § 3. This act shall take effect on the first of April next succeeding
50 the date upon which it shall have become a law.