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 Assembly, do enact as follows:

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

§ 2. 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 **the** state for damages. [~~**The state shall not be liable for damages suffered by any person 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, 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**~~] **Subject to the provisions of subdivision two of this section, the state shall be liable for injuries or damage sustained by persons while traveling on state highways, if the same are caused by defects within the limits of the constructed traveled roadway; provided, however, that the state shall not be liable for injury or damage sustained:**

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

(b) upon the sidewalk of any state highway;

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

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

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

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

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

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

(b) that either:

(i) a negligent or wrongful act or omission of an employee of the state within the scope of such employee's employment created the dangerous condition; or

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

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

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

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

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

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

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

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

5. 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 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.

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