

HB 7148

PA 798

1971

SENATE -

3403

HOUSE -

4399 - 4418

JUDICIARY -

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CONNECTICUT
GENERAL ASSEMBLY

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1971

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Page 74

File 1186; Cal. 643, House Bill 6904, File 1582; Cal. 1150, House Bill 7901
File 1342; Cal. 1192, House Bill 7148, File 1334; Cal. 1204, House Bill 7256
File 1393; Cal. 1214, House Bill 7014, File 1423; Cal. 1226, House Bill 8914
File 1073; Cal. 1257, House Bill 7048, File 1464; Cal. 1262, House Bill 8271
File 1474; Cal. 1267, House Bill 9020, File 1457; Cal. 1271, House Bill 5049
File 1628; Cal. 1272, House Bill 5415, File 1632; Cal. 1273, House Bill 5627
File 1616; Cal. 1274, House Bill 5709, File 1630; Cal. 1275, House Bill 5714
File 1575; Cal. 1276, House Bill 5834, File 1569; Cal. 1277, House Bill 5938
File 1585; Cal. 1278, House Bill 6210, File 1627; Cal. 1279, House Bill 6367
File 1565; Cal. 1280, House Bill 6561, File 1555; Cal. 1281, House Bill 6674
File 1586; Cal. 1285, House Bill 7077, File 1556; Cal. 1287, House Bill 8272
File 1566; Cal. 1289, House Bill 8578, File 1579; Cal. 1290, House Bill 8799
File 1640; Cal. 1293, House Bill 9246, File 1638; Cal. 1294, House Bill 9256
File 1637; Cal. 1295, House Bill 9001, File 737; Cal. 629, House Bill 7642
File 638; Cal. 721, House Bill 7802, File 1127; Cal. 755, House Bill 8761
File 773; Cal. 802, House Bill 8658, File 906; Cal. 964, House Bill 6197
File 1359; Cal. 975, House Bill 7609, File 876; Cal. 990, House Bill 8561
File 1172; Cal. 1041, House Bill 9196, File 1232.

Mr. President, I move for the adoption of all those bills, I move for suspension of the rules, first of all, for consideration of those which were not single starred or were not double starred rather.

THE CHAIR:

All those in favor of suspension of the rules indicate by saying, "aye"
All those opposed? Suspension is granted.

SENATOR CALDWELL:

H-117

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 10
4344-4830**

Chamber will give them an appropriate welcome.

MR. WILLARD (15th):

Mr. Speaker, a point of personal privilege.

THE SPEAKER:

Please proceed.

MR. WILLARD (15th):

For the purpose of an introduction. Seated in the gallery, we have a student from the University of Connecticut, one of the residents of East Hartford, I'm sure if she'll rise, stand up, she'll get a round welcome from this House, Miss Sue Blaskow.

THE SPEAKER:

The Clerk will continue with the call of the Calendar.

THE CLERK:

Page 12, Calendar No. 1202, Substitute for H.B. No. 6886, An Act Concerning the Use of Counselors for Alcoholic Persons in the Circuit Court.

MR. PRETE (114th):

Mr. Speaker, may that matter be passed temporarily?

THE SPEAKER:

So ordered.

THE CLERK:

Calendar No. 1203, Substitute for H.B. No. 7148, An Act Concerning Damages for Injuries Sustained on State Highways.

MR. CARROZZELLA (81st):

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill.

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THE SPEAKER:

Will you remark?

MR. CARROZZELLA (81st):

Mr. Speaker, what this does is amend the highway statutes, so-called, which allows suit against the state for defective highways by adding a cause of action if injury is sustained as a result of the construction of a highway, bridge or sidewalk which is defective in its plan. We have on the Calendar right now a bill for a woman who was severely injured and it is alleged that there was a defect in the construction of the existing highway. No recovery can be had for this woman because this is not part of the law. We are hoping to cure that by another bill. This bill would allow a suit in the case of a defective highway in its plan. I think it is a good amendment. I think it is a people's amendment. I move the passage of the bill.

THE SPEAKER:

Further remarks on the bill?

MR. STEVENS (122nd):

Mr. Speaker, I rise in opposition to this bill. I do so because I think this bill goes too far. This bill would make the state expressly liable for the construction of the highway or bridge according to a defective plan or layout. As the Chairman of the Judiciary Committee correctly stated, the bill is motivated by an unsuccessful action that was commenced back in 1962 by a young girl who was injured in the New Haven area. That case has been to the Supreme Court of Connecticut twice and rejected by the Supreme Court of Connecticut twice. Enactment of this bill would open up a new ambit of liability on the state for highway design and layout and make the propriety of administrative decisions in this respect subject to judicial review. In other words, second guessing by the court many years after the actual design

djh

was laid out and put into effect. There must be some limitation upon the liability of the state for defects in designs. Presently, an individual can recover if the court finds that the design was defective. This bill goes too far. The proposed amendment of our current statute would take one side of the policy point for defective design and settle it by coming down on the side of judicial review and I submit to you that in the ambit of planning by the State Transportation Department, we cannot make it one-sided for review by the court many years after the design has been put into effect. I don't think it's a good bill. I think it should be defeated.

djh

MR. GILLIES (75th):

Mr. Speaker, contrary to what has just been suggested, I think it is a very good bill. I think blatantly absurd that if, in fact, there has been a design defect and clearly this is going to be the burden of the plaintiff, to establish if, in fact, this is what's wrong. If, in fact, there has been something that the State has done in error which has led as a proximate cause of a person's injury, that person should not be precluded from gaining financial recovery just as she would if I stood out in the middle of the highway on my property and built something that was blatantly dangerous. I would have to respond in damages for such a defect and clearly the State should not be immune from such a blatantly defective construction. And that's all this bill endeavors to do. I would question whether or not a person may presently recover under our existing statutes for such defects. Clearly the bill we have before us, the case which Mr. Stevens referred to, where the Supreme Court did rule on two separate occasions that there was no cause of action, would clearly indicate that, in fact, there is no such remedy available. I think it's a remedy that should be afforded. I think it's a good bill and I urge it's passage.

Wednesday, June 2, 1971

59

MR. CARROZZELLA (81st):

Mr. Speaker, with all due respect to Rep. Stevens, I don't see any reason why the Highway Commissioner shouldn't be second guessed if in fact the design is defective. This is what we're trying to protect against. We're not going to give him carte blanche to go about designing defective highways without giving the injured party a remedy. There's nothing wrong in second guessing anyone. I submit it's a good bill and I urge it's passage.

THE SPEAKER:

Further remarks on the bill?

MR. BINGHAM (157th):

Mr. Speaker, I rise to support the bill. This bill makes the State responsible just like it would make anyone else responsible. The person who manufactures a defective automobile, the person who sells defective materials, product liability cases, the contractor who constructs a defective house, all this does is equalize the State with every other person who is made liable for defective material or defective construction or defective planning. Mr. Speaker, this is a good bill and I urge its passage.

THE SPEAKER:

Further remarks on the bill?

MR. VOTTO (116th):

Mr. Speaker, I rise to support this bill. This bill does not open the floodgates to litigation against the State of Connecticut. We must all realize, I believe, that we're not in the horse and buggy days and the day of constructing multiple lane highways in the State of Connecticut is a thing of the present time, possibly in the future. The old logic of insulating the State providing double mental immunity, it seems to me, is just not appropriate in this day and age especially where highways play such an integral

djh

Wednesday, June 2, 1971

60

part of our society and cut through centers of cities. This case, this bill may render relief in a certain instance, a tragic case, however, it opens the door for actions strictly on the sense of defective and negligent design. Let us all remember basically in a case of this nature, any litigant will have a substantial burden of proof, will have to come forward with expertise, with engineers to contest the layout. That the nature of the action in and of itself is going to be a deterrent to many lawsuits. I think it's a good bill and it should pass.

THE SPEAKER:

Will you remark further?

MR. PRETE (114th):

Mr. Speaker, I rise in favor of the bill. Although I'm not an attorney, it just seems fair that where there's an obvious and clear defect in the design of a highway, then the State should be responsible for it in the same sense that an automobile manufacturer is responsible for defects in his automobile. I move that when this bill be taken, it be taken by roll call.

THE SPEAKER:

The question is on a roll call. All those in favor indicate by saying aye. A roll call vote will be ordered.

MR. KING (48th):

Mr. Speaker, I rise to support the bill. I think the principle that the sovereign can do no wrong has long since passed into history. I think if we bought literally the argument that Rep. Stevens, that we would be reversing the course of history back to that concept. I endorse the statement of Rep. Bingham that the state is in defensibly no different position than the individual manufacturer who creates either his manufacturing

djh

plant or if he is constructing a building or building a highway, is responsible djh for his neglect, his omission, or the defects in the project. I see no essential difference between the state and the individual in that respect. I think we ought to cast aside the principle that the king, the sovereign can do no wrong and I support the bill on that basis.

THE SPEAKER:

Will you remark further before I announce an immediate roll call?

MR. CAMP (163rd):

I think it's a lawyer's dream, and I oppose this bill. It's a little too much of a dream, I think, because almost anybody could argue that almost any highway in the State of Connecticut was in some manner defectively or negligently laid out. Take the brand new 84, you get out a mile or so from the Capitol going east, or west rather, and you find you have a turnoff to the right and all the traffic suddenly bottles up and goes left. I could very well see that the Highway Department could be second guessed and could determine that this highway was improperly laid out. Could somebody argue that a highway should be four lanes instead of three, or that a blinker light had been requested for a time and not put up? I suggest that Mr. Prete is quite correct when he indicates that it's something about standards but the problem with this bill is it doesn't seem to me that it puts any standards upon the Commissioner. I can perhaps understand if there was a heavy burden against the plaintiffs in such an action but to merely say that anybody can get a jury together of twelve men and then second guess everything that the highway department has done throughout our state, I think it's going to put this state in a very unfortunate financial position.

Wednesday, June 2, 1971

62

MR. LENGE (13th):

djh

Mr. Speaker, I rise to oppose this bill. I think the purpose of the bill is commendable and laudatory but I think it expresses more of frustration and an anger with the miles and miles of abominably and poorly constructed highways in this state. What it does is say that we are recognizing but not by the right route the poorly designed and poorly constructed network of highways. If this bill were prospective, if this bill would put the Highway Department and the Transportation Department on notice that henceforth that they are now liable, it would have merit. But I ask you, how many cases would be brought based upon poor design and construction just in the stretch in this capitol, of highway in this capitol area? This is not analogous to defective sidewalk construction where you can make the correction in short order and at a very inexpensive price. This would really require the analysis and cataloguing of every major defective area of highway in the State of Connecticut. Maybe that should be done, but it ought not to be done by this method. There have been bills introduced into this legislature in days past that called for studies, that called for analysis of the defective highway construction. If you're going to place the burden of litigation as a means of compelling and bringing about something constructive and positive, you're doing it all wrong. And let's get another thing straight. This is no lawyer's dream. The burden in this case brought by any plaintiff is on the plaintiff and how, I ask you, is he going to marshal the engineering resources to prove a defective layout and defect in design and defect in construction. None of it is patent and I think we ought to defeat this bill.

MR. SULLIVAN (130th):

Mr. Speaker, I must respectfully disagree with the two previous speakers although Mr. Lenge in his, in the latter part of his remarks

was absolutely correct. All this bill does is allow a person who believes that he has been injured, because of a defective highway, to bring that action. The burden of proof then rests on the person bringing the action, contrary to what has been said by the distinguished gentleman from Ridgefield, the burden of proof is on the plaintiff to prove that there was a defect. You can't just walk in and say there was. You have to present a qualified expert. But what we are doing here is making it possible for someone who is hurt in an accident that's caused by a defective, defectively designed ramp, for instance, to at least bring an action. In the Supreme Court case we're referring to, a reading of that case compels me to believe that there is no cause of action now unless we enact this legislation and, therefore, I move acceptance of this bill.

THE SPEAKER:

The gentleman from the 122nd speaking for the second time.

MR. STEVENS (122nd):

Speaking for the second time, I'd like to clarify something. It is possible in the State of Connecticut today to bring an action under the present law and collect against the state if there is a defect in the design of a highway. Now the Supreme Court of the State of Connecticut has just recently, in February of 1970, restated the law in Connecticut on this particular subject and they said, were the plan of construction adopted by the state one was totally inadmissible, the highway would have been in such a defective condition as to have been out of repair from the beginning. This means that if you have a plan, a design of a road which is clearly improper, you can recover under the present defect statute. This particular bill before us would open the floodgates. It would allow multitude of suits against the

state for the design, as Rep. Lenge has said, of every single state highway in Connecticut. And what would that mean? That would mean originally that a jury and subsequently on appeal, a court would be determining whether or not the Engineering Department of the State Highway made an error, what, five years ago, ten years ago, fifteen years ago, twenty years ago? What standards are we going to apply in saying, for instance, that I91 or I95, which was constructed between 1951 and 1955 was constructed so as to have a defect? It's easy in 1971, when engineering of roads has advanced, to say that portions of the Connecticut Turnpike were not designed as safely as they might have been had they been designed today. All I am saying is, today you can recover if a defect in design is a serious one. The Supreme Court has said this. This is a lawyer's bill and as a lawyer, I oppose it because it would make it much too easy to recover against the State of Connecticut for designs that are claimed to be defective many years after the road is designed. It's second guessing of the worst kind and it should be defeated.

THE SPEAKER:

Will you remark further on the bill? Rep. Gillies speaking for the second time.

MR. GILLIES (75th):

Mr. Speaker, I would simply state or really ask a rhetorical question. If, in fact, a suit can be brought in the State of Connecticut for this kind of injury, why is it necessary and clearly it is necessary, why is it necessary to have on page 11 of today's Calendar, Calendar No. 1186, substitute for H.B. No. 9115, An Act Authorizing Eileen Donnelly Hickey to Bring an Action Against the Commissioner? Why is it necessary to have that before us if, in fact, that person has a cause of action? It's necessary because

djh

the court has ruled that she does not have a cause of action under our existing statutes and she needs some sufficient remedy. This bill would provide another Miss Donnelly or Miss Hickey with such a remedy.

THE SPEAKER:

Will you remark further before I announce an immediate roll call?

MR. ARGAZZI (25th):

Mr. Speaker, I rise to oppose this bill. I would submit that in every case of a serious auto accident which occurs, if this bill is passed, and where there is lacking a defect in the highway which is the customary precedent to bringing suit as the law now stands, that in every one of these cases, the lawyer is going to bring a lawsuit based on the negligent design and plan of a highway and I think it's just going to open the floodgates to more lawsuits and do exactly what we're trying to avoid in the many other laws we've passed this session, to clear the courts and to clear the logjams. It's a very bad bill. It think it creates more problems than it solves.

MR. EDWARDS (155th):

Mr. Speaker, a question if someone could answer it. Looking today at the Merritt Parkway, or the Wilbur Cross Parkway, which was designed many many years ago, in a number of areas fencing is being put up as the median divider, fencing in a highway is specifically mentioned in this bill. I don't think there's any question that that fencing has been necessary. Those roads have been unsafe according to modern standards. Now, the question is this. If the Department of Transportation should recognize, as they have done, these faults and are not able to correct those faults because the General Assembly has not provided them with sufficient money, where does the Commissioner of Transportation and the state stand then in so far as a

suit is concerned if we insist that he be liable for the defects of things that were planned and constructed twenty or thirty years ago? Can we withhold, let's say, the funds necessary for those things to be corrected?

THE SPEAKER:

Let me announce an immediate roll call. I understand the Clerk has further business to read in.

THE CLERK:

Favorable reports of Joint Standing Committees. Judiciary, H.B. No. 7493, An Act Providing for the Licensing of Mass Gatherings.

Corrections, H.B. No. 8093, An Act Concerning Subsidized Adoptions by Foster Parents of Children in Their Care.

THE SPEAKER:

Tabled for the Calendar in both cases.

THE CLERK:

General Law, substitute for H.B. No. 7237, An Act Validating a Garnishment of the State Treasurer by the Worker's Federal Credit Union, Inc.

THE SPEAKER:

Tabled for the Calendar.

THE CLERK:

Judiciary, substitute for H.B. No. 6210, An Act Concerning Interest.

THE SPEAKER:

Tabled for the Calendar.

THE CLERK:

Finance, substitute for H.B. No. 8143, An Act Concerning Qualifications of Assessors for Municipal Revaluation.

djh

Wednesday, June 2, 1971

67

THE SPEAKER:

Tabled for the Calendar.

THE CLERK:

General Law, substitute for H.B. No. 8170, An Act Prohibiting Previews of "X" Rated Films During the Showing of Movies Intended for General Audiences.

THE SPEAKER:

The Clerk wants the Assistant Clerk to reread that one!
Tabled for the Calendar and printing.

Let me announce again. The House will stand at ease momentarily while the members return. For the benefit of the members who've just returned to the Hall, an immediate roll call has been called on Calendar No. 1203 on page 12, in your files as 1334, An Act Concerning Damages for Injuries Sustained on State Highways.

Before returning that, are there announcements? Rep. Ajello, do you have an announcement to make?

MR. AJELLO (118th):

Yes, Mr. Speaker, I'd like to indicate to the members on this side of the House that we'll be having a caucus tomorrow at 12:00 noon in the Judiciary Room. He says right and we'll be discussing congressional redistricting, a primary bill and the constitutional amendment concerning 18 year olds, residency requirements and hopefully some aspects of the fiscal problem so we'd ask for a good attendance, 12:00 noon in the Judiciary Room.

THE SPEAKER:

The gentleman did say hopefully hopefully, didn't he?

MR. AJELLO (118th):

I think I did, yes.

MR. MORANO (151st):

I'd like to announce a Republican caucus tomorrow at 12:00 noon in Room 409a.

THE SPEAKER:

Is there some consideration of a joint caucus tomorrow at 12:00 noon?

MR. MORANO (151st):

If you twist my arm a little!

THE SPEAKER:

Further announcements or introductions? Then will the Clerk read in further business and then we'll proceed with the debate.

THE CLERK:

Favorable reports of Joint Standing Committees, Government Administration and Policy, substitute for House Joint Resolution No. 80, Resolution Proposing an Amendment to the Constitution, Concerning the Qualifications of Electors.

THE SPEAKER:

Tabled for the Calendar and printing.

THE CLERK:

Judiciary, H.B. No. 5709, An Act Concerning Acquisition of Land Adjacent to Highway for Agriculture and Natural Resources Purposes.

THE SPEAKER:

Tabled for the Calendar and printing.

THE CLERK:

Judiciary, substitute for H.B. No. 6647, An Act Concerning Debt Pooling.

djh

Wednesday, June 2, 1971

69

THE SPEAKER:

Tabled for the Calendar and printing.

THE CLERK:

Judiciary, substitute for H.B. No. 5415, An Act Concerning the Performance of Autopsies.

THE SPEAKER:

Tabled for the Calendar and printing.

Will the members be seated and the aisles cleared and will the staff come to the well of the House please. Will you remark further on the bill before we vote? Rep. Camp from the 163rd speaking for the second time.

MR. CAMP (163rd):

Thank you, Mr. Speaker. I indicated before, it seems to me this bill is a lawyer's dream because what it would do, in effect, is to give every plaintiff in the state virtually on an action for personal injuries and automobile accidents, an additional party to the action and that is, the State of Connecticut. Because without a great deal of thinking about it, I think you can find something wrong with almost every highway in the state if you use a standard. Take, for example, the Merritt Parkway, designed in 1938, the entrances and exits in every case are hardly equipped for going on to a highway where there's a sixty mile an hour speed limit. In my town, we have roads that are state highways, that are yet no more than twelve or fifteen feet wide. This neglect on the state's part in this instance to be actionable here. I agree with you completely that this bill has salutary features to it and it attempts to solve a problem. The problem with the bill is it does it in a very heavy handed manner. It doesn't establish any standards. Mr. Sullivan, a moment ago, indicated--

Wednesday, June 2, 1971

70

THE SPEAKER:

Will the gentleman hold momentarily so we can get full attention of the House for his words of wisdom? Rep. Camp has some pearls for you, Rep. Camp.

MR. CAMP (163rd):

Mr. Sullivan indicated a moment or two ago that you still had to prove your case. Well, of course, you have to prove your case but all you have to do is hire a highway engineer who brings some sort of qualifications as to being an "expert" in the field of highway safety, get him in to testify and get him to say the highway is unsafe and you've made a prima facie case. It's up to the state to come in with evidence of its own. Again, I think the bill is salutary in its intent but it's disasterous in its heavy handed attempt to solve this problem. Thank you.

THE SPEAKER:

Further remarks?

MR. BINGHAM (157th):

Mr. Speaker, I'm amazed and shocked by my fellow members of the Bar who say this is a lawyer's bill. You might just as well say that rape is a lawyer's bill, or that murder is a lawyer's bill, or that cancer is a doctor's disease. Obviously you need a lawyer to bring a person into court and obviously you need a doctor to cure disease or hope to cure a disease. Mr. Speaker, the day of the king can do no wrong has gone. We are attempting to give the people of the State of Connecticut a cause of action which they deserve. If a highway is incorrectly designed, they should recover and those people who are afraid of this bill, Mr. Speaker, are afraid of the jury system because the jurors who sit there pay the taxes, the jurors who sit there

djh

pay the insurance rates, the jurors decide who is reasonable, who is a reasonable man and who should recover. Mr. Speaker, I urge the passage of this bill.

THE SPEAKER:

Are we ready to vote?

MR. SARASIN (95th):

Mr. Speaker, it is with great reluctance that I rise to oppose my roommate and friend, Col. Bingham, but I oppose the bill.

THE SPEAKER:

Is there anyone here to speak for Lt. Gov. Hull?

MR. SARASIN (95th):

The Lt. Gov. speaks very well for himself, sir. I oppose the bill and in answer somewhat to Rep. Gillies' remarks as to the question of why such another comment, or another case of this type would be before us and he referred to the item on page 11, I think very simply the item on page 11 and both the attempts to go through the Supreme Court of this state, the plaintiff failed in her burden of proof. I would quote from one part of the decision of the Supreme Court that says, that the duty imposed on the state by the provisions of the defective highway statute is not such as to make the state an insurer for people using these highways which the defendant must keep in repair, but is rather a duty to exercise reasonable care to make and keep such roads in a reasonably safe condition for the reasonably prudent traveler. I submit, Mr. Speaker, that this is the essence of the opposition to this bill. Certainly not that the individual who was injured, and we can do nothing for that individual at this point, that that individual should not have been allowed to recover, but should the state of Connecticut be an insurer for all types of injuries on all kinds of highways, and I submit, Mr. Speaker, that

djh

that day has not yet come. It hasn't come for me as a homeowner and it certainly shouldn't come to me as a taxpayer in the State of Connecticut that the state will be an insurer in all cases. The Supreme Court also said in the area of highway safety at least, it has long been the settled view and an eminently justifiable one that courts should not be permitted to review determinations of governmental planning bodies under the guise of allowing them to be challenged in negligence suits. Something more than a mere choice between conflicting opinions of experts is required before the state or one of its subdivisions may be charged with the failure to discharge its duty to plan highways for the safety of the travelling public. We're talking about reasonableness, Mr. Speaker, and this attempt today, the bill before us, would do away with reasonableness and would make the state an insurer. The State of Connecticut simply cannot afford to be placed in that position and they cannot afford to be placed in a special position with a greater liability than any individual person or corporation. I oppose the bill.

MR. KING (37th):

Mr. Speaker, I oppose this bill. Very briefly, I will say that it isn't fair to impose upon the state an obligation for defective highway design when we in this House, during the past week, on two occasions, and I assume that more will follow, have decreed the very type of highway design that the state highway department must take. By our very action, we have decided that the highway cannot be built in the direction, perhaps at the very curve, allowing for the weaving time and various other safety factors that the Transportation Department has felt is necessary for prudent highway building and planning. And having put the highway department down and determining on a whim where they shall build, where they shall not build, what

Wednesday, June 2, 1971

73

distances they must account for and many other safety factors, I think that it's not fair to impose upon them the obligation for liability out of such design.

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MR. OLIVER (104th):

Mr. Speaker, very briefly, Mr. Speaker, I'm very surprised at the words the gentleman from the 95th, this statute does absolutely nothing more with regard to highway design defects than it does in the earlier lines, four and five, for example, and down, in terms of the existing statute. It merely gives another cause of action and the state will not be the insurer. It still has to prove that the design was unreasonable, not making it insurer. He mentioned the word insurer. Of course, the state is insured on these things, as you know. Right now, we do pay the liability premiums, the coverage and it hires the attorneys to defend this state on these very cases. The case that was, made the law was Donnelly against Ives in the Supreme Court, was made by attorneys representing an insurance company whose home office is in Hartford. Again, this doesn't make the state an insurer. Absolutely not. If the gentleman reads that the key words or by reason of the neglect or the default of said commissioner, if the gentleman reads lines four and five of the existing law about which he is not critical, it says through the neglect or default of the state or any of its employees. It seems to me its absolutely clear, if the gentleman read it, it's not making the state an insurer.

MR. LENGE (13th):

Mr. Speaker, the proponents say that if the highway is poorly designed or poorly constructed, then give the injured a cause of action. I say, sir, that if we are speaking from conscience and concern, the answer is not that. Let's correct the defective highways. Let's correct all of these

errors and let's insist on strict enforcement in the usage of the highways within the capacity as constructed. In short and in specifically, enforce the speed limits, enforce all other signs that are posted, sir, for safety of the users. This bill is wrongly directed. If you really mean business, let's not encourage lawsuits, let's correct it and let's furnish the money for study and correction. That's the answer. This is not a correction measure at all. This does not alleviate the problem, it perpetuates it.

MR. STOLBERG (112th):

It is with reluctance I rise to oppose the bill. I note that this bill has caused--

THE SPEAKER:

The gentleman from the 112th has the floor.

MR. STOLBERG (112th):

has caused a crossing of normal voting patterns that I've discerned earlier in the House.

THE SPEAKER:

It's a genetic bill, Rep. Stolberg.

MR. STOLBERG (112th):

I think one of the reasons that is really is ambiguous and it opens up a Pandora's Box that could cause the state a great deal of difficulty. There's no question from my observation that a lot of the left hand exits and entries, a lot of the telescoping before eight lanes and back again of our highways are indeed grievous errors. Again, I think our job is to correct those errors rather than make all of the taxpayers of the State of Connecticut liable for the oversights of the Department of Transportation and in the ultimate, our oversights. I think that our goal should be to

change these oversights rather than cause the taxpayers to pay for them.

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THE SPEAKER:

Will the members be seated and the aisles cleared? We'll proceed with the vote. Will the members please take their own seats? I'd ask the non-members please remain in the well of the House. The machine will be open. Has every member voted? Is your vote recorded in the fashion you wish? The machine will be locked. The Clerk will take a tally.

MR. HOLDSWORTH (125th):

Mr. Speaker.

THE SPEAKER:

For what purpose does the gentleman rise?

MR. HOLDSWORTH (125th):

My vote did not record, Mr. Speaker. I'd like to vote in the nay.

THE SPEAKER:

The gentleman from the 125th, Rep. Holdsworth, the representative is present, in his chair, wishes to be recorded in the negative.

THE CLERK:

Total Number Voting	164
Necessary for Passage	83
Those voting Yea	94
Those voting Nay	70
Absent and Not Voting	13

THE SPEAKER:

The bill is PASSED.

The Clerk will continue with the call of the regular Calendar.

THE CLERK:

**JOINT
STANDING
COMMITTEE
HEARINGS**

JUDICIARY

**PART 2
393-688**

1971

We are often called upon to sand these places. In spite of this, due to the fact that many of these establishments are open 24-hours a day, these hazardous conditions continue to exist because people do not always call up and we can not tell exactly when there is an icy condition there. We do not patrol 24 - hours a day.

The addition to Sec. 19-310 would make it clear that the statute specifically applies to this kind of a situation and would permit the taxing of the costs of sanding and salting against the owner and/or operator of the car-wash establishment.

I would like to point out that H.B. #7148 which is also being heard today would further amend Section 19-310 by extending its scope to include sidewalks. Incidentally, sidewalks in front of car-wash establishments also become icy as a result of their operations when the temperature is right.

For the reasons mentioned above we request a favorable report on H.B. #5713. Thank you.

Rep. Oliver. Mr. Knurek, I am Bob Oliver 4th District. Reputable to #5712 is this the Bill that you are in favor of on amending 13a-144, is that what I understand on your testimony?

Mr. Knurek: Yes, H.B. #5712. To make it in writing so

Rep. Oliver: What would your Department's position be on an amendment to 13a-144 to allow a course of action for negligent design to over-rule Donnley against Ives? Well, that is not in this Bill but I am asking

Mr. Knurek: No, that is covered in this other Bill #6372, I believe.

Rep. Oliver: This seems - I don't think so, but you oppose that Bill I presume.

Mr. Knurek: On that score, we said that we feel a person can always go to the Claims Division.

Rep. Oliver: Is it your understanding that if someone is denied a - is barred in action against the State under the doctrine of Donnley against Ives that he has a claim that can be pursued to the Claim Commission?

Mr. Knurek: Yes, if he has no other remedy he can go to the Claims Commission and that is where he - if a question of law becomes involved there, he gets permission to sue, otherwise, the Claims Commission can award up to \$25,000 without the approval of the General Assembly.