

ASSEMBLY, No. 867

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen MALONE and ARNONE

1 **AN ACT** clarifying the liability of public entities under certain
2 circumstances and amending N.J.S.59:4-4 and N.J.S.59:4-5.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.59:4-4 is amended to read as follows:

8 59:4-4. Failure to provide emergency warning signals.

9 a. Subject to section 59:4-2 of this act, a public entity shall be
10 liable for injury proximately caused by its failure to provide emergency
11 signals, signs, markings or other devices if such devices were
12 necessary to warn of a dangerous condition which endangered the safe
13 movement of traffic and which would not be reasonably apparent to,
14 and would not have been anticipated by, a person exercising due care.

15 b. Nothing in this section shall be construed to impose liability
16 upon a public entity for injury proximately caused by its failure to
17 replace or maintain ordinary traffic signals, signs, markings or other
18 devices, unless the public entity had actual or constructive knowledge
19 of the absence of such ordinary traffic signals, signs, markings or other
20 devices and its actions or failure to act are palpably unreasonable.

21 (cf: N.J.S.59:4-4)

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23 2. N.J.S. 59:4-5 is amended to read as follows:

24 59:4-5. Failure to provide ordinary traffic signals--immunity.

25 Neither a public entity nor a public employee is liable under this
26 chapter for an injury caused by the failure to provide, replace or
27 Maintain ordinary traffic signals, signs, markings or other similar
28 devices, unless the public entity had actual or constructive knowledge
29 of the absence of such ordinary traffic signals, signs, markings or other
30 devices and its actions or failure to act are palpably unreasonable.

31 (cf: N.J.S.59:4-5)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill amends N.J.S.A.59:4-5 to provide that a public entity will not
7 be liable for injury proximately caused by the failure to replace or
8 maintain ordinary traffic signals, signs, markings or other devices
9 except under certain circumstances as added by the committee
10 amendments. It also amends N.J.S.A.59:4-4 (concerning emergency
11 signs) to provide that section shall not be construed to impose liability
12 upon a public entity for injury proximately caused by its failure to
13 replace or maintain ordinary traffic signals, signs, markings or other
14 devices except under certain circumstances as added by the committee
15 amendments. Currently the law provides that a public entity may be
16 liable for injury proximately caused by its failure to provide emergency
17 signals, signs, markings or other devices under certain circumstances
18 set forth in N.J.S.A.59:4-4. This bill does not change that provision.

19 In Civalier by Civalier v. Estate of Trancucci, 138 N.J. 52 (1994),
20 the New Jersey Supreme Court ruled in a 4-2 decision that
21 N.J.S.59:4-4 of the "New Jersey Tort Claims Act" imposes liability on
22 a public entity for its failure to replace a missing stop sign if a
23 motorist's reliance on the previous presence of the sign caused injury.
24 This bill is intended to overcome the court's ruling in that case by
25 clarifying when public entities are immune from liability.

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30 Clarifies certain immunities granted by the "New Jersey Tort Claims
31 Act" to public entities.