

[Second Reprint]  
ASSEMBLY, No. 867

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen MALONE, ARNONE, Senators Connors and Singer

1 AN ACT clarifying the liability of public entities under certain  
2 circumstances and amending N.J.S.59:4-4 <sup>2</sup>[and N.J.S.59:4-5]<sup>2</sup>.

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

6  
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 <sup>1</sup>[, unless the public entity had actual or constructive  
19 knowledge of the absence of such ordinary traffic signals, signs,  
20 markings or other devices and its actions or failure to act are palpably  
21 unreasonable] <sup>1</sup> <sup>2</sup>unless the public entity has actual knowledge that the  
22 signals, signs, markings, or other devices have been removed,  
23 destroyed, damaged, or rendered ineffective and failed to act as a  
24 reasonable person exercising due care<sup>2</sup>.

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

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27 <sup>2</sup>[2. N.J.S.59:4-5 is amended to read as follows:

28 59:4-5. Failure to provide ordinary traffic signals--immunity.

29 Neither a public entity nor a public employee is liable under this  
30 chapter for an injury caused by the failure to provide, replace or

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SCO committee amendments adopted September 19, 1996.

<sup>2</sup> Senate floor amendments adopted December 11, 1997.

1 maintain ordinary traffic signals, signs, markings or other similar  
2 devices <sup>1</sup>[,unless the public entity had actual or constructive  
3 knowledge of the absence of such ordinary traffic signals, signs,  
4 markings or other devices and its actions or failure to act are palpably  
5 unreasonable]<sup>1</sup>.

6 (cf: N.J.S.59:4-5)]<sup>2</sup>

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8 <sup>2</sup>[3.] 2.<sup>2</sup> This act shall take effect immediately.

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