**§8104-A. Exceptions to immunity**

Except as specified in section 8104-B, a governmental entity is liable for property damage, bodily injury or death in the following instances. [PL 1987, c. 740, §4 (NEW).]

**1. Ownership; maintenance or use of vehicles, machinery and equipment.** A governmental entity is liable for its negligent acts or omissions in its ownership, maintenance or use of any:

A. Motor vehicle, as defined in Title 29-A, section 101, subsection 42; [PL 1995, c. 65, Pt. A, §43 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

B. Special mobile equipment, as defined in Title 29-A, section 101, subsection 70; [PL 1995, c. 65, Pt. A, §43 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

C. Trailers, as defined in Title 29-A, section 101, subsection 86; [PL 1995, c. 65, Pt. A, §43 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

D. Aircraft, as defined in Title 6, section 3, subsection 5; [PL 1987, c. 740, §4 (NEW).]

E. Watercraft, as defined in Title 12, section 1872, subsection 14; [PL 1997, c. 678, §18 (AMD).]

F. Snowmobiles, as defined in Title 12, section 13001, subsection 25; and [PL 2003, c. 414, Pt. B, §27 (AMD); PL 2003, c. 614, §9 (AFF).]

G. Other machinery or equipment, whether mobile or stationary. [PL 1987, c. 740, §4 (NEW).]

The provisions of this section do not apply to the sales of motor vehicles and equipment at auction by a governmental entity.
[PL 2003, c. 414, Pt. B, §27 (AMD); PL 2003, c. 614, §9 (AFF).]

**2. Public buildings.** A governmental entity is liable for its negligent acts or omissions in the construction, operation or maintenance of any public building or the appurtenances to any public building. Notwithstanding this subsection, a governmental entity is not liable for any claim which results from:

A. The construction, ownership, maintenance or use of:

(1) Unimproved land;

(2) Historic sites, including, but not limited to, memorials, as defined in Title 12, section 1801, subsection 5;

(3) Land, buildings, structures, facilities or equipment designed for use primarily by the public in connection with public outdoor recreation; or

(4) Dams; [PL 1997, c. 678, §19 (AMD).]

B. The ownership, maintenance or use of any building acquired by a governmental entity for reasons of tax delinquency, from the date of foreclosure and until actual possession by the delinquent taxpayer or the taxpayer's lessee or licensee has ceased for a period of 60 days; or [PL 1987, c. 740, §4 (NEW).]

C. The ownership, maintenance or use of any building acquired by a governmental entity by eminent domain or by condemnation until actual possession by the former owner or the owner's lessee or licensee has ceased for a period of 60 days; [PL 1987, c. 740, §4 (NEW).]
[PL 1997, c. 678, §19 (AMD).]

**3. Discharge of pollutants.** A governmental entity is liable for its negligent acts or omissions in the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalines, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water, but only to the extent that the discharge, dispersal, release or escape complained of is sudden and accidental.

[PL 1987, c. 740, §4 (NEW).]

**4. Road construction, street cleaning or repair.** A governmental entity is liable for its negligent acts or omissions arising out of and occurring during the performance of construction, street cleaning or repair operations on any highway, town way, sidewalk, parking area, causeway, bridge, airport runway or taxiway, including appurtenances necessary for the control of those ways including, but not limited to, street signs, traffic lights, parking meters and guardrails. A governmental entity is not liable for any defect, lack of repair or lack of sufficient railing in any highway, town way, sidewalk, parking area, causeway, bridge, airport runway or taxiway or in any appurtenance thereto.
[PL 1987, c. 740, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 740, §4 (NEW). PL 1995, c. 65, §A43 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 630, §1 (AMD). PL 1997, c. 678, §§18,19 (AMD). PL 2003, c. 414, §B27 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF).

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