CHAPTER 313

LIABILITY FOR DAMAGES

§3651. Failure to provide safety and convenience

Highways, town ways and streets legally established shall be opened and kept in repair so as to be safe and convenient for travelers with motor vehicles. In default thereof, those liable may be indicted, convicted and a reasonable fine imposed therefor. [PL 1977, c. 363, §5 (AMD).]

1. Legal objects not defects. Trees, structures, utility poles and facilities and other things that exist in accordance with municipal ordinances are not defects in a public way. For the purposes of this subsection, "facilities" has the same meaning as in Title 35-A, section 2502, subsection 3.
[PL 2019, c. 128, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 363, §5 (AMD). PL 1987, c. 583, §1 (AMD). PL 2019, c. 128, §1 (AMD).

§3652. Notice of defect; hearing on petition

When a town liable to maintain a way unreasonably neglects to keep it in repair as provided in section 3651, after one of the municipal officers has had 5 days' actual notice or knowledge of the defective condition, any 3 or more responsible persons may petition the county commissioners for the county, setting forth such facts, who, if satisfied that such petitioners are responsible for the costs of the proceedings, shall fix a time and place near such defective way for a hearing on such petition and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way alleged to be out of repair and hear the parties interested, and if they adjudge the way to be unsafe and inconvenient for travelers, motor vehicles, horses, teams and carriages, they shall prescribe what repairs shall be made, fix the time in which the town shall make them, give notice thereof to the municipal officers and award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, they shall dismiss the petition and award the costs against the petitioners. If they find that the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

§3653. Manner of presenting petition

The petition provided for in section 3652 may be presented to the county commissioners at any of their sessions, or in vacation to their chairman, who shall procure the concurrence of his associates in fixing the time and place in the order of notice and cause the petition to be entered at their next session. They shall make full return of their proceedings on the petition and cause the same to be recorded as of their next regular term after the proceedings are closed.

§3654. Failure to comply with commissioners' order; warrant of distress

If the town neglects to make the repairs prescribed by the commissioners under section 3652, within the time fixed therefor in such notice to the town, they may cause it to be done by an agent, not one of themselves. Such agent shall cause the repairs to be made forthwith and shall render to the commissioners his account of disbursements and services in making the same. His account shall not be allowed without such notice to the town as the commissioners deem reasonable. When the account is allowed, the town becomes liable therefor, with the agent's expenses in procuring the allowance of his account and interest after such allowance, and said commissioners shall render judgment therefor against the town in favor of the agent. If a town neglects to pay such judgment for 30 days after demand, a warrant of distress shall be issued by the commissioners to collect the same.

§3655. Personal injury actions; limitations; damages; notice

A person who receives any bodily injury or suffers damage in the person's property through any defect or want of repair or sufficient railing in any highway, town way, causeway or bridge may recover for the same in a civil action, to be commenced within one year from the date of receiving such injury or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county or the municipal officers or road commissioners of such town or any person authorized by any commissioner of such county or any municipal officer or road commissioner of such town to act as a substitute for either of them had 24 hours' actual notice of the defect or want of repair, but not exceeding $6,000 in case of a town. If the sufferer had notice of the condition of such way previous to the time of the injury, the sufferer cannot recover of a town unless the sufferer has previously notified one of the municipal officers of the defective condition of such way. Any person who sustains injury or damage or some person in the person's behalf shall, within 180 days thereafter, notify one of the county commissioners of such county or of the municipal officers of such town by letter or otherwise, in writing, setting forth the person's claim for damages and specifying the nature of the person's injuries and the nature and location of the defect that caused such injury. If the life of any person is lost through such deficiency, the person's executors or administrators may recover of such county or town liable to keep the same in repair, in a civil action, brought for the benefit of the estate of the deceased, such sum as the jury may determine reasonable as damages, if the parties liable had said notice of the deficiency that caused the loss of life. In any action against a town for damages for loss of life permitted under this section, the claim for and award of damages, including costs, against a town and its employees must be disposed of as provided under Title 18-C, section 2-807, but may not exceed $25,000 for each claim and $300,000 for any and all claims arising out of a single occurrence. No damages for the loss of comfort, society and companionship of the deceased may be allowed in an action under this section. At the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged when it would materially aid in a clear understanding of the case. [PL 2017, c. 402, Pt. C, §74 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1977, c. 2, §§3,5 (AMD). PL 1977, c. 578, §7 (AMD). PL 1977, c. 591, §§4-6 (AMD). PL 1979, c. 68, §§3,5 (AMD). PL 1979, c. 663, §138 (AMD). PL 2017, c. 402, Pt. C, §74 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§3656. Repair within 6 years; location conclusive

When on trial of any such action or indictment as provided for in section 3655 it appears that the defendant county or town has made repairs on the way or bridge within 6 years before the injury, it shall not deny the location of such way or bridge.

§3657. Loads exceeding 6 tons; no liability

(REPEALED)

SECTION HISTORY

PL 1977, c. 363, §6 (RP).

§3658. Sidewalk accident; no town liability

No town is liable to an action for damages to any person on foot on account of snow or ice on any sidewalk or crosswalk nor on account of the slippery condition of any sidewalk or crosswalk.

§3659. Protection of private water supplies

In the event a land owner believes that a private water supply on his land has been destroyed or rendered unfit for human consumption by a political subdivision constructing, reconstructing or maintaining a public highway under its jurisdiction, the owner may apply in writing to the political

subdivision for a determination of the alleged cause and assessment of damages. [PL 1987, c. 491, §1 (NEW).]

1. Application presented within 2 years. If the claim is founded on construction or reconstruction, the owner shall present the application within 2 years after completion of the work as that date appears in the records of the political subdivision. The application shall set forth:

A. The name and address of the owner; [PL 1987, c. 491, §1 (NEW).]

B. The name and address of any lien holder; [PL 1987, c. 491, §1 (NEW).]

C. The owner's source of title; [PL 1987, c. 491, §1 (NEW).]

D. The location of the property; [PL 1987, c. 491, §1 (NEW).]

E. A description of the damage; and [PL 1987, c. 491, §1 (NEW).]

F. The cause to which the damage is attributed. [PL 1987, c. 491, §1 (NEW).]
[PL 1987, c. 491, §1 (NEW).]

2. Written response. Within 90 days upon receipt of the owner's application, the political subdivision shall forward a written response to the owner.
[PL 1987, c. 491, §1 (NEW).]

3. Offer of settlement. If the political subdivision determines that any damage to the privately owned water supply was caused by the political subdivision constructing, reconstructing or maintaining the public highway, the political subdivision shall set forth in its response an offer of settlement. The political subdivision in its response shall consider the necessity for the installation or replacement of piping, tanks, pumps, heating systems or other related fixtures. In its offer of settlement, a political subdivision may consider the following remedies:

A. Replacing the water supply; [PL 1987, c. 491, §1 (NEW).]

B. Repairing the damage to the water supply; [PL 1987, c. 491, §1 (NEW).]

C. Paying a designated sum of money; and [PL 1987, c. 491, §1 (NEW).]

D. Purchasing the realty served by the water supply. [PL 1987, c. 491, §1 (NEW).]
[PL 1987, c. 491, §1 (NEW).]

4. Action filed. If the landowner and political subdivision are unable to agree on the cause of the problem to the water supply or to the terms of settlement, the landowner may file an action in Superior Court in the county or counties where the land is located.

A. The complaint shall be filed within one year after receiving a written response by the municipality. [PL 1987, c. 491, §1 (NEW).]

B. The case shall be determined by a referee and the court shall appoint one or more referees pursuant to the Maine Rules of Civil Procedure. [PL 1987, c. 491, §1 (NEW).]

C. Damages to the property shall be based on the difference between the fair market value of the property before the water supply was destroyed or rendered unfit and the fair market value of the property after the water supply was destroyed or rendered unfit or based on the cost to cure the damage, whichever amount is less. [PL 1987, c. 491, §1 (NEW).]
[PL 1987, c. 491, §1 (NEW).]

5. Limitations on liability. A political subdivision shall not be liable:

A. If the private water supply is located within the right-of-way limits of the highway; [PL 1987, c. 491, §1 (NEW).]

B. If the location of the private water supply does not provide for adequate surface drainage, provided that surface drainage problems caused by the construction, reconstruction or maintenance

of a public highway by the political subdivision do not relieve the political subdivision of liability under this section; or [PL 1987, c. 491, §1 (NEW).]

C. If the private water supply prior to the construction, reconstruction or maintenance was contaminated or polluted by another source to the degree that the contamination or pollution rendered it unfit for human consumption. [PL 1987, c. 491, §1 (NEW).]

[PL 1987, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 491, §1 (NEW).

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