

GOVERNMENTAL LIABILITY FOR NEGLIGENCE (EXCERPT)
Act 170 of 1964

691.1402a Municipal corporation; maintenance of sidewalk; liability; presumption; additional defense; limitation.

Sec. 2a.

(1) A municipal corporation in which a sidewalk is installed adjacent to a municipal, county, or state highway shall maintain the sidewalk in reasonable repair.

(2) A municipal corporation is not liable for breach of a duty to maintain a sidewalk unless the plaintiff proves that at least 30 days before the occurrence of the relevant injury, death, or damage, the municipal corporation knew or, in the exercise of reasonable diligence, should have known of the existence of the defect in the sidewalk.

(3) In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) is presumed to have maintained the sidewalk in reasonable repair. This presumption may only be rebutted by evidence of facts showing that a proximate cause of the injury was 1 or both of the following:

(a) A vertical discontinuity defect of 2 inches or more in the sidewalk.

(b) A dangerous condition in the sidewalk itself of a particular character other than solely a vertical discontinuity.

(4) Whether a presumption under subsection (3) has been rebutted is a question of law for the court.

(5) In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) may assert, in addition to any other defense available to it, any defense available under the common law with respect to a premises liability claim, including, but not limited to, a defense that the condition was open and obvious.

(6) A municipal corporation's liability under subsection (1) is limited by section 81131 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81131.

History: Add. 1999, Act 205, Imd. Eff. Dec. 21, 1999 ;-- Am. 2012, Act 50, Imd. Eff. Mar. 13, 2012 ;-- Am. 2016, Act 419, Imd. Eff. Jan. 4, 2017

Compiler's Notes: Enacting section 1 of Act 205 of 1999 provides:“Enacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act.”

Popular Name: Governmental Immunity Act

Popular Name: 2-Inch Rule