

Vehicle Accident-Related Tort Liability Suits in Louisiana

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Problem

Louisiana has the dubious distinction of being the only state that does not have sovereign immunity, or at least partial immunity to tort liability cases for its state transportation department.

In the past ten years, law suits against the Louisiana Department of Transportation and Development (DOTD) have occurred, in the aggregate, in excess of 100 million dollars. These suits put a strain on the financial resources of the state.

The research performed in the titled project will statistically analyze the accident history

in Louisiana and propose remedial measures to reduce tort liability, including necessary changes in the legal system.

For several years, court cases have eroded the traditional immunity of the states (and municipalities) from ordinary tort liability. In addition, the Louisiana Constitution of 1974 completely abrogated sovereign immunity from liability and tort.

Objectives

- To obtain and statistically analyze the history of accidents between 1983 and 1992 and rank the worst locations in



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the highway systems within the state.

- To review a sample of 100 recently closed cases in which awards have been granted against the state to identify the characteristics of the road and bridge system that most frequently give rise to claims.
- To propose legislation that will create an appropriate degree of immunity or limitation of liability, including the consideration of a constitutional amendment restoring sovereign immunity and a state Tort Claims Act. A state Tort Claims Act should contain a special section pertaining to highway defects, limiting liability and limiting the grounds on which liability could be based.

- To identify and recommend modifications in accident reporting and investigation practices.

Description

Most of the data required for this project are expected to be available from DOTD, the Louisiana Highway Safety Commission, the Division of Administration, the Office of Risk Management and the Louisiana State University Law Library. Additionally, a literature search and interviews will be conducted.

The approach will be to research the reported cases of DOTD liability to analyze all claims settled and pending. The aim of this research is to identify,

through the analysis of historical accident data, the need to incorporate safety in the engineering design, maintenance, and operation of the highway system and to develop a comprehensive statutory revision in the area of liability. A review of tort liability laws in other states will be provided to facilitate a comparison to Louisiana laws.

Implementation Potential

In addition to project objectives being achieved, recommendations of proposed legislation will be made to bring the tort liability laws of Louisiana in line with those of most other states.