



State of Connecticut
Office of Governor Ned Lamont

BILL NOTIFICATION 2022-13

May 26, 2022

Governor Lamont vetoed the following legislation of the 2022 Regular Session on May 26:

SB 204 AN ACT CONCERNING DAMAGES TO PERSON OR PROPERTY CAUSED
PA 22-22 BY THE NEGLIGENT OPERATION OF A MOTOR VEHICLE OWNED BY A
POLITICAL SUBDIVISION OF THE STATE.
Governor Lamont's veto message can be found on page 2 of this document.

As of this date, the governor has signed 125 bills and vetoed 1 bill of the 2022 Regular Session.



Ned Lamont

GOVERNOR

STATE OF CONNECTICUT

May 26, 2022

The Honorable Denise W. Merrill
Secretary of the State
165 Capitol Avenue
Hartford, CT 06106

Dear Madam Secretary:

I hereby return, without my signature, Senate Bill 204, *An Act Concerning Damages to Person or Property Caused by the Negligent Operation of a Motor Vehicle Owned by a Political Subdivision of the State.*

This bill aims to eliminate governmental immunity as a defense in cases of negligence which involve vehicles owned by a municipality. The bill does not differentiate between negligence arising out of discretionary versus ministerial acts with a motor vehicle. As explained more fully below, I am not convinced that the legislature fully considered the possible consequences of the bill.

Currently, public employees operating municipal vehicles do not have the discretion to disregard motor vehicle laws. They have a mandatory duty to abide by these laws and a municipality may be liable for an employee's negligent driving. As the Connecticut Council for Municipalities recognized in its submitted testimony "public employees operating municipal vehicles do not have the discretion to disregard motor vehicle laws... they have a ministerial/mandatory duty to abide by these laws. In instances where there is deviance from those laws, government immunity would not apply." *See*, The Connecticut Conference of Municipalities' testimony before the Judiciary Committee, March 4, 2022.

Municipal employees operating emergency response vehicles and responding to emergencies such as home invasions, fires, or medical emergencies are permitted to disregard certain traffic laws but still have a "duty to drive with due regard for the safety of all persons and property." *See*, Conn. Gen. Stat. § 14-283(d). Indeed, CCM recognized this longstanding principle under Connecticut law when it wrote that "the government immunity is limited by CGS §14-283."

The majority opinion in *Borelli v. Renaldi*, 336 Conn. 1 (2020) found that § 14-283(d) "imposes a discretionary duty on police officers to act," *Borelli*, 336 Conn. at 16, and rejected the principle that it "functions as an exception to governmental immunity for discretionary acts pursuant to § 52-557n (a) (2) (B)," *Borelli*, 336 Conn. at 35 (Robinson, C.J., concurring).

I respect that it is a policy decision well within the purview and authority of the legislature to reject the Supreme Court's recent statutory interpretation. However, as written, SB 204 seems broader: it eliminates completely the doctrine of governmental immunity for a municipality in the operation of a town-owned vehicle. This change could entail, for example, that a police officer's decision to pursue a fleeing law violator is not a discretionary act and therefore governmental immunity does not apply. In that regard, I am concerned that the bill may inadvertently have gone too far. This concern is strengthened by the fact that municipal leaders, municipal employees, legislators, and other groups who have recently reached out disagree in material ways about the extent of the bill's reach. Some assert that the legislation will encourage more litigation against municipalities and emergency responders, increase insurance premiums, and result in fewer people agreeing to serve as volunteer emergency responders. Others have said that all the bill does is unite municipal liability with state liability regarding tort responsibility for motor vehicle crashes and return the law to what it was until recent court decisions.

Based on the transcript of legislative debate it appears that the legislature adopted the parity rationale. However, it is not evident whether in doing so, the legislature fully considered that unlike the state, municipalities face greater exposure by the simple fact that they have more emergency vehicles on the roads every day. Employees and volunteers operate police vehicles, fire trucks, and ambulances for the approximately 94 municipal police departments and over 300 municipal fire departments. The legislative debate is silent on the many questions raised by both the recent Supreme Court case and municipal leaders.

This is a significant and complex area of the law. Before making changes in this area of the law, I suggest that legislators meet with the municipal officials and other interested parties to discuss more fully the purpose and the impact of this legislation.

For these reasons, I disapprove of Senate Bill 204, *An Act Concerning Damages to Person or Property Caused by the Negligent Operation of a Motor Vehicle Owned by a Political Subdivision of the State*. Pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut, I am returning Senate Bill 204 without my signature.

Sincerely,



Ned Lamont
Governor

