

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 765 Session of 2021

INTRODUCED BY B. MILLER, HAMM, JAMES, HILL-EVANS, MOUL, ZIMMERMAN, SMITH, STAMBAUGH, RYAN, ROTHMAN, GROVE, WHEELAND, PICKETT, MILLARD, KEEFER AND FEE, MARCH 3, 2021

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 6, 2021

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in powers of department and local authorities,
3 further providing for specific powers of department and local
4 authorities.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 6109(a)(3) of Title 75 of the
8 Pennsylvania Consolidated Statutes is amended and the section is
9 amended by adding a ~~subsection~~ SUBSECTIONS to read: <--

10 § 6109. Specific powers of department and local authorities.

11 (a) Enumeration of police powers.--The provisions of this
12 title shall not be deemed to prevent the department on State-
13 designated highways and local authorities on streets or highways
14 within their physical boundaries from the reasonable exercise of
15 their police powers. The following are presumed to be reasonable
16 exercises of police power:

17 * * *

18 (3) [Regulating] Subject to ~~subsection (j)~~ SUBSECTIONS <--

1 (J) AND (J.1), regulating or prohibiting processions, special
2 activities or assemblages on highways.

3 * * *

4 (j) Permits for processions, special activities and
5 assemblages on State-designated highways.--The department may
6 not require, as a condition for the approval of a permit for a
7 procession, special activity or assemblage on a State-designated
8 highway, a local authority to submit a statement that the local
9 authority will agree to fully indemnify, save harmless and
10 defend the Commonwealth, Commonwealth departments and their
11 officers, agents and employees from and against claims, suits or
12 actions for injury, death or property damage arising from or
13 because of the acts or omissions of its officers, agents or
14 employees or of the sponsor of the procession, special activity
15 or assemblage, unless IF all of the following conditions are <--
16 met:

17 (1) The sponsor of the procession, special activity or
18 assemblage is not the local authority.

19 (2) The sponsor will fully indemnify, save harmless and,
20 if requested, defend the Commonwealth, Commonwealth
21 departments, and their officers, agents and employees from
22 and against claims, suits or actions for injury, death or
23 property damage arising from or because of the acts or
24 omissions of the sponsor, its officers, agents or employees.

25 (3) The sponsor names the department as an additional
26 insured on its liability policies and the liability insurance
27 policies are occurrence based and the insurance certificate
28 indicates that the insurance is occurrence based.

29 (4) The sponsor agrees to reimburse the Commonwealth for
30 all costs for police escort and traffic-control services.

1 (5) The local authority approves of the sponsor
2 conducting the procession, special activity or assemblage.

3 (6) The local authority agrees to provide adequate
4 detour signing or police controls for the rerouting of
5 traffic along an alternate route, if requested by the
6 department.

7 (J.1) SOVEREIGN IMMUNITY.--

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8 (1) NOTHING IN SUBSECTION (J) SHALL BE CONSTRUED TO
9 REQUIRE THE DEPARTMENT TO ISSUE A PERMIT FOR A PROCESSION,
10 ASSEMBLAGE OR SPECIAL ACTIVITY THAT WILL OCCUR ON A STREET,
11 HIGHWAY OR REAL ESTATE DEEMED BY THE DEPARTMENT TO BE UNSAFE
12 FOR USE BY PARTICIPANTS. THE DEPARTMENT, ITS SERVANTS AND
13 AGENTS, EMPLOYEES AND REPRESENTATIVES ACTING ON ITS BEHALF
14 SHALL BE IMMUNE FROM SUIT BY PARTICIPANTS FOR PERSONAL
15 INJURIES OR PROPERTY DAMAGES ARISING DURING A PROCESSION,
16 ASSEMBLAGE OR SPECIAL ACTIVITY PERMITTED BY THE DEPARTMENT
17 UNDER 42 PA.C.S. §§ 8521 (RELATING TO SOVEREIGN IMMUNITY
18 GENERALLY) AND 8522 (RELATING TO EXCEPTIONS TO SOVEREIGN
19 IMMUNITY).

20 (2) THE TERM "PARTICIPANTS" SHALL INCLUDE SPECTATORS,
21 EVENT SPONSORS, MUNICIPAL OFFICIALS, POLICE, FIRE POLICE,
22 MEDIA AND OTHERS PRESENT DURING THE PROCESSION, ASSEMBLAGE OR
23 SPECIAL ACTIVITY PERMITTED BY THE DEPARTMENT.

24 Section 2. This act shall take effect in 60 days.