

Maintenance Memorandum

Date: September 3, 2003

Subject: **Information on Winter Operations Around Sidewalks and Pedestrian Overpasses**

Recently some of you asked what direction existed concerning who was responsible for winter maintenance of pedestrian overpasses and sidewalks. The answers can be found in the three attached documents, but the general answer is that the local municipality is responsible for winter clearing of ice and snow on both pedestrian overpasses and sidewalks. I have highlighted the appropriate items in the attached documents for your convenience. This information will be added to the Operations Maintenance Handbook the next time it is updated.

If you have any questions I can be reached at 517-322-3332 or lowerb.

Bard Lower
Engineer, Region Support Unit
(Signed copy on file)

Attachments

“Governmental Liability for Negligence – Act 170 of 1964 (Excerpt)”; 1 pg.

“GUIDANCE DOCUMENT – Pedestrian Bridges/Tunnels” August 21, 2002; 1pg.

“Responsibility for Maintenance of Grade Separations on State Trunklines” August 8, 2002; 2 pgs.

GOVERNMENTAL LIABILITY FOR NEGLIGENCE (EXCERPT)
Act 170 of 1964

691.1402 Repairing and maintaining highways; damages for bodily injury or damage to property; liability, procedure, and remedy as to county roads; judgment against state; payment of judgment; effect of contractual undertaking to perform work on state trunk line highway; limitations on duties of governmental agency; liability of municipal corporation.

Sec. 2.

(1) Except as otherwise provided in section 2a, each governmental agency having jurisdiction over a highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. A person who sustains bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel may recover the damages suffered by him or her from the governmental agency. The liability, procedure, and remedy as to county roads under the jurisdiction of a county road commission shall be as provided in section 21 of chapter IV of 1909 PA 283, MCL 224.21. **The duty of the state and the county road commissions to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, trailways, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel.** A judgment against the state based on a claim arising under this section from acts or omissions of the state transportation department is payable only from restricted funds appropriated to the state transportation department or funds provided by its insurer.

(2) If the state transportation department contracts with another governmental agency to perform work on a state trunk line highway, an action brought under this section for tort liability arising out of the performance of that work shall be brought only against the state transportation department under the same circumstances and to the same extent as if the work had been performed by employees of the state transportation department. The state transportation department has the same defenses to the action as it would have had if the work had been performed by its own employees. If an action described in this subsection could have been maintained against the state transportation department, it shall not be maintained against the governmental agency that performed the work for the state transportation department. The governmental agency also has the same defenses that could have been asserted by the state transportation department had the action been brought against the state transportation department.


(3) The contractual undertaking of a governmental agency to maintain a state trunk line highway confers contractual rights only on the state transportation department and does not confer third party beneficiary or other contractual rights in any other person to recover damages to person or property from that governmental agency. This subsection does not relieve the state transportation department of liability it may have, under this section, regarding that highway.

(4) The duty imposed by this section on a governmental agency is limited by sections 81131 and 82124 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81131 and 324.82124.

History: 1964, Act 170, Eff. July 1, 1965 ;--Am. 1990, Act 278, Imd. Eff. Dec. 11, 1990 ;--Am. 1996, Act 150, Imd. Eff. Mar. 25, 1996 ;--Am. 1999, Act 205, Imd. Eff. Dec. 21, 1999 .

Compiler's Note: 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

 <p style="text-align: center;">GUIDANCE DOCUMENT</p>	IDENTIFIER	EFFECTIVE DATE
	10092	08/21/02
	SUPERCEDES	DATED
	10092	01/03/2001
RESPONSIBLE ORGANIZATION: Bureau of Highways		
SUBJECT: LOCAL/PRIVATE PEDESTRIAN BRIDGES/TUNNELS		

I. PURPOSE:

Pedestrian bridges/tunnels crossing limited access or free access state trunklines may be constructed to provide access for pedestrian crossings in the vicinity of schools, stadiums, or other large pedestrian generators.

II. INFORMATION:

The pedestrian bridges/tunnels may only be constructed under a Department construction contract or permit. The crossing must be authorized by the Department through a signed agreement with the requesting agency or private party and the design must comply with current Department standards and ADA requirements. The structural integrity of pedestrian bridges/tunnels will be routinely inspected by the Department unless the agreement specifically states otherwise. Authorized pedestrian bridges/tunnels will be maintained solely by the requesting agency or private party to include the removal of ice and snow, graffiti, and sweeping. The agreement will include this maintenance provision. All construction or maintenance work which requires traffic control on the trunkline will be authorized by the Department through the permit process. If possible, tunnel entrances and/or bridge supporting structure will be located outside the trunkline area of influence as defined by the Engineer of Design and Support Services. Guardrails and/or an appropriate barrier will be used to protect the structure and the motoring public if required by the department.

All costs to design, construct, and maintain the structure to include barriers and guardrails will be paid by the requesting agency or private party.

Function and use of all pedestrian bridges/tunnels will be reviewed periodically by the Department to insure there is a need for a pedestrian crossing. Any pedestrian bridges/tunnels which no longer serve as a pedestrian crossing or not properly maintained may be removed by the Department. The provision for removal of the structure by the Department under these circumstances will be included in the agreement.

Approved: _____ Date: _____
 Engineer of Development
 Bureau of Highways - Development

Maintenance Memorandum

Date: August 8, 2002

Subject: **Responsibility for Maintenance of Grade Separations on State Trunklines**

The determination established here will govern wherever maintenance responsibility has not been specifically established by contractual agreement or by legislation.

1. Railroads Crossing State Trunkline Highways

All new agreements entered into for railroad/highway grade separation will comply with Section 319(1) of Public Act 354 of 1993, which states maintenance responsibility of railroad/highway grade separations must be contained in the agreement.

In those few instances where no agreement exists, maintenance responsibility shall comply with Section 319(7) of Public Act 354 of 1993, which states the Michigan Department of Transportation shall determine the allotment of maintenance responsibility generally based upon the party whose traffic is carried by the structure.

2. State Trunkline Highways Crossing County or Local Roads and Streets

A. Where the state trunkline highway passes over a road or street owned by a local government unit, the Michigan Department of Transportation will maintain the structure, including retaining walls.

If the grade separation is part of an interchange, the department will also maintain the ramps. (For maintenance purposes, a ramp begins or ends at the local road edge of metal.) Utility contracts and permits in the interchange area will be under the control of the Michigan Department of Transportation.

The department will not be responsible for the maintenance of the highway or street under the grade separation structure, including drainage structures, protective barriers, under clearance signs, slope mowing, non-motorized paths, winter trails, signs, and under bridge lighting.

B. Where the state trunkline highway passes under a locally owned road, street, or a pedestrian walkover serving a locally owned road or street, the Michigan Department of Transportation will maintain its road and the structural integrity of the deck, superstructure, substructure, footings, retaining walls, and the following integral parts of the structure: sidewalks, curbs, railing, and pedestrian screening.

Maintenance Memorandum

Date: August 8, 2002

Subject: **Responsibility for Maintenance of Grade Separations on State Trunklines**

If the grade separation is part of an interchange, the department will also maintain the ramps, including the interchange area. Utility contracts and permits in the interchange area will be under the control of the Michigan Department of Transportation.

The department will not be responsible for the maintenance of the locally owned road or street, or any of the following that is beyond the structure abutments: approach pavement, embankments, drainage facilities, curbs, sidewalks, railing or guardrail. Nor will the department be responsible for the maintenance of the following located on the structure: street lighting, traffic signals, snow and ice removal, temporary patching of potholes and other depressions on the deck surface or sidewalks not affecting the structural integrity of the bridge, sweeping and cleaning of the structure, surface signing, and pavement markings.

Larry E. Tibbits
Chief Operations Officer
(Signature on file)