

**SB159 INTRODUCED**



1 GY8QC6-1  
2 By Senator Scofield  
3 RFD: Judiciary  
4 First Read: 04-Apr-23  
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SYNOPSIS:

Under existing law, a contractor who performs work on a road, bridge, highway, or street, in compliance with the specifications provided by an awarding authority, may be held civilly liable for certain conditions related to or caused by the work performed.

This bill would provide that a contractor shall be immune from civil liability to any person for any personal injury, property damage, or death caused by or related to the work performed, provided that the contractor performs the work in substantial compliance with the contract specifications, and the awarding authority accepts the project for maintenance upon completion.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to civil liability; to amend Sections 6-5-700, 6-5-702, and 6-5-703, Code of Alabama 1975, to establish certain conditions under which a contractor who performs work on a road, bridge, highway, or street shall be granted civil immunity; and to repeal Section 6-5-701, Code of Alabama 1975.



## SB159 INTRODUCED

29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

30 Section 1. Sections 6-5-700, 6-5-702, and 6-5-703, Code  
31 of Alabama 1975, are amended to read as follows:

32 "§6-5-700

33 For the purposes of this article, the following terms  
34 ~~shall~~ have the following meanings:

35 (1) AWARDING AUTHORITY. If the contractor enters into a  
36 contract to construct, repair, or maintain a highway, a road,  
37 a bridge, or a street, then the awarding authority will be any  
38 of the following:

39 a. The Alabama Department of Transportation, ~~if the~~  
40 ~~contractor enters into a contract with the State of Alabama to~~  
41 ~~construct, repair, or maintain a highway, a road, or a street~~  
42 for the ~~State of Alabama;~~ or state.

43 b. The county governing body, ~~if the contractor enters~~  
44 ~~into a contract with that county to construct, repair, or~~  
45 ~~maintain a highway, a road, or a street~~ for ~~that~~ the county  
46 where the project is performed; ~~or.~~

47 c. The governing body of any other local government, ~~if~~  
48 ~~the contractor enters into a contract with that local~~  
49 ~~government to construct, repair, or maintain a highway, a~~  
50 ~~road, or a street for that local government~~ with local  
51 jurisdiction over the locations where the project is  
52 performed.

53 d. Any other governmental board, commission, agency,  
54 body, authority, instrumentality, department, subdivision of  
55 the state, or two-year or four-year institution of higher  
56 education, if the contractor enters into a contract with the



## SB159 INTRODUCED

57 entity to perform a project. This term shall exclude the State  
58 Docks Department and any entity exempted from the competitive  
59 bid laws of the state by statute.

60 (2) CONCLUSION OF PROJECT. The earlier of the  
61 following:

62 a. The date that the awarding authority either makes  
63 the final payment due and payable to the contractor under the  
64 contract or notifies the contractor, in writing, that the  
65 awarding authority has assumed maintenance responsibilities  
66 for the ~~roadway~~project.

67 b. The 30th day ~~or 60 days~~ after the contractor has  
68 ~~notified, in writing~~provided written notice to the awarding  
69 authority ~~, the awarding authority that the contractor's work~~  
70 ~~on~~ the project is completed, ~~whichever is earlier.~~

71 (3) CONTRACTOR. Any ~~person or entity~~individual,  
72 corporation, limited liability company, partnership, or other  
73 legal entity, or any combination thereof, and any  
74 subcontractor, director, officer, or employee of ~~such a person~~  
75 ~~or entity~~the individual or legal entity, that contracts with  
76 ~~the State of Alabama, a county, or other local government~~an  
77 awarding authority to ~~construct, repair, or maintain a~~  
78 ~~highway, a road, a bridge, or a street~~perform a project.

79 (4) DANGEROUS CONDITION. A condition that is not  
80 reasonably safe for the intended use of the roadway and is  
81 capable of causing ~~a person~~an individual physical injury or  
82 death under the anticipated use of the roadway.

83 (5) PROJECT. The construction, repair, or maintenance  
84 by a contractor of the section of highway, road, bridge, or



## SB159 INTRODUCED

85 street together with all appurtenances, as specified in a  
86 contract with an awarding authority.

87 ~~(5)~~ (6) SPECIFICATIONS. Specifications, plans, drawings,  
88 bid documents, or any other written or electronically stored  
89 requirements and details the contractor agrees to perform."

90 "§6-5-702

91 During the course of performing the  
92 project~~construction~~, a contractor ~~who constructs, maintains,~~  
93 ~~or repairs a highway, road, street, or bridge for the awarding~~  
94 ~~authority~~ is not liable to a claimant for personal injury,  
95 property damage, or death arising from the performance of ~~such~~  
96 ~~construction, maintenance, or repair~~ the project, if, at the  
97 time of the personal injury, property damage, or death, either  
98 of the following circumstances existed:

99 (1) The, ~~the~~ contractor was in compliance with contract  
100 ~~documents~~ specifications material to the condition, including  
101 the traffic control plan, that was the proximate cause of the  
102 personal injury, property damage, or death ~~unless following~~  
103 ~~the plans and specifications would result in a dangerous~~  
104 ~~condition that should have appeared to be defective to a~~  
105 ~~reasonably prudent contractor or that the contractor should~~  
106 ~~have known that following the plans and specifications could~~  
107 ~~create a dangerous condition that caused the injury or death.~~

108 (2) The claimant was in violation of either of the  
109 following:

110 a. Subsection (a), (b), or (c) of Section 32-5A-191.

111 b. Section 32-5A-350 (b)."

112 "§6-5-703



## SB159 INTRODUCED

113 ~~If, prior to or during the course of construction, a~~  
114 ~~contractor discovers or determines that following the plans~~  
115 ~~and specifications could result in a potentially dangerous~~  
116 ~~condition, then the contractor shall, with specificity of such~~  
117 ~~condition, expressly notify the Chief Engineer of the Alabama~~  
118 ~~Department of Transportation in writing by certified mail,~~  
119 ~~return receipt requested. The Alabama Department of~~  
120 ~~Transportation, or the awarding authority, shall respond to~~  
121 ~~the specific condition raised within 14 days in writing as to~~  
122 ~~its decision as to the appropriate response to the dangerous~~  
123 ~~condition. The contractor shall not be liable for any claim~~  
124 ~~relating to any decision made by the Alabama Department of~~  
125 ~~Transportation or awarding authority as to the appropriate~~  
126 ~~response, design decisions, or engineering decision, if any,~~  
127 ~~to respond to the potentially dangerous condition identified.~~  
128 Following completion of any project and the determination by  
129 the awarding authority that the project substantially complies  
130 with the plans and specifications provided for the project,  
131 the contractor shall not be civilly liable to any individual  
132 or legal entity for any condition related to the project  
133 alleged to have arisen following the awarding authority's  
134 acceptance of the project for maintenance."

135 Section 2. Section 6-5-701, Code of Alabama 1975,  
136 relating to exceptions to the general rule that a contractor  
137 relying on specifications of a contract with an awarding  
138 authority shall not be held civilly liable for a project  
139 performed on behalf of the awarding authority, is repealed.

140 Section 3. This act shall become effective on the first



## SB159 INTRODUCED

141 day of the third month following its passage and approval by  
142 the Governor, or its otherwise becoming law.