CS FOR HOUSE BILL NO. 291(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/28/95
Referred: Rules

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

"An Act relating to civil liability for skateboarding; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 05 is amended by adding a new chapter to read:

CHAPTER 50. SKATEBOARD LIABILITY AND RESPONSIBILITY.

Sec. 05.50.010. LIMITATION ON ACTIONS ARISING FROM SKATEBOARDING. Notwithstanding any other provision of law, a person may not bring an action against a municipality for an injury occurring at a municipal skateboarding facility if the injury results from an inherent danger and risk of skateboarding.

Sec. 05.50.020. EFFECT OF VIOLATIONS. (a) A municipality or other person who violates a requirement of this chapter is negligent and civilly liable to the extent the violation causes injury to a person or damage to property.

(b) Notwithstanding the provisions of AS 09.17.080,
(1) the limitation of liability described under AS 05.50.010 is a complete defense in an action against a municipality for an injury if an inherent danger or risk of skateboarding is determined to be a contributory factor in the resulting injury, unless the municipality has violated a requirement of this chapter;

(2) a violation of the person's duties imposed under AS 05.50.030 is a complete defense in an action against a municipality if the violation is determined to be a contributory factor in the resulting injury, unless the municipality has violated a requirement of this chapter.

(c) If the municipality is determined to have violated a requirement of this chapter, the provisions of AS 09.17.080 apply in an action against a municipality for an injury resulting from the violation.

Sec. 05.50.030. DUTIES OF MUNICIPAL SKATEBOARDING FACILITY USERS. (a) A person may not use a municipal skateboarding facility if the person

(1) does not have sufficient physical dexterity or ability and knowledge to negotiate or use the facility safely;

(2) is not wearing knee pads, elbow pads, shoes, and a helmet at all times.

(b) A person using a municipal skateboarding facility may not

(1) enter or leave a municipal skateboarding facility except at a designated area unless reasonably necessary to prevent injury to the person or others;

(2) intentionally throw or expel an object onto the facility;

(3) take food, drink, or glass containers on the facility;

(4) act while using the facility in a manner that may interfere with proper or safe condition of the facility;

(5) engage in conduct that may contribute or cause injury to a person;

(6) enter the facility when the facility is marked as closed;

(7) disobey instructions posted in accordance with this chapter or any other instructions required by local laws consistent with this chapter;

(8) use other items including but not limited to bicycles, unicycles, coasters, roller skates, or roller blades at the facility unless otherwise allowed by the municipality.
Sec. 05.50.040. DUTIES OF MUNICIPALITIES. (a) In a municipal skateboarding facility, a municipality shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of skateboarders. Signs shall be prominently placed at each facility.

(b) At least one sign posted at each facility must contain language substantially similar to the following warning notice:

WARNING

Under Alaska Law, the risk of an injury to person or property resulting from any of the inherent dangers of skateboarding rests with the skateboarder. Inherent dangers and risks of skateboarding include collisions with manmade objects, collisions with other skateboarders, variations in slope, falling, and the failure of skateboarders to skate within their own abilities.

Sec. 05.50.050. DUTIES AND RESPONSIBILITIES OF SKATEBOARDERS. A skateboarder who uses a municipal skateboarding facility

(1) is responsible for knowing the range of the person's own ability to negotiate a skateboarding facility and to skateboard within the limits of a skateboarder's ability;

(2) is responsible for an injury to a person or property resulting from an inherent danger and risk of skateboarding, except that a skateboarder is not precluded under this chapter from suing another skateboarder for an injury to person or property resulting from the other skateboarder's acts or omissions; notwithstanding any other provision of law, the risk of collision with another skateboarder is not an inherent danger or risk of skateboarding in an action by one skateboarder against another;

(3) has the duty to

(A) maintain control of the skateboarder's speed and course at all times when skateboarding and to maintain a proper lookout so as to be able to avoid other skateboarders, objects, and debris; however, a person skateboarding on a downhill slope has a primary duty to avoid collision with
a person or object below the skateboarder;

   (B) perform a visual inspection of the facility before each use;

   (C) ensure that all areas of the facility the skateboarder intends
to use are free and clear of natural or manmade debris that would interfere with
the skateboarder's use of the facility;

   (D) heed all posted information and other warnings and to
refrain from acting in a manner that may cause or contribute to the injury of
the skateboarder; evidence that signs as required by AS 05.50.040 or as
required by consistent local laws were present, visible, and readable at the
beginning of a given day creates the presumption that skateboarders using the
skateboarding facility on that day have seen and understood the sign; and

(4) may not

   (A) skateboard in a facility or a portion of a facility that has
been posted as "closed"; or

   (B) use a skateboarding facility while the skateboarder's ability
is impaired by the influence of alcohol or a controlled substance as defined in
AS 11.71.900 or other drugs.

Sec. 05.50.060. COMPETITION: IMMUNITY FOR MUNICIPALITY
OPERATING A SKATEBOARDING FACILITY. (a) A municipality shall, before
beginning skateboard competition at a municipal skateboarding facility, allow an
athlete who will skateboard in the competition a reasonable visual inspection of the
course or area where the competition is to be held.

   (b) A person skateboarding in competition assumes the risk of all course or
area conditions, course construction or layout, and obstacles that a visual inspection
would have revealed. A municipality is not liable for injury to a person who
skateboarded in competition at a skateboarding facility operated by the municipality
and who is injured as a result of a risk described in this subsection.

Sec. 05.50.100. DEFINITIONS. In this chapter,

   (1) "inherent danger and risk of skateboarding" means a danger or
condition that is an integral part of the sport of skateboarding including collisions with
man-made objects; impact with ramps, signs, posts, fences, or enclosures, or other
man-made structures and their components; variations in slope and steepness; collisions
with other skateboarders; and the failure of skateboarders to skateboard within their
own abilities; the term "inherent danger and risk of skateboarding" does not include
the negligence of a municipality that is responsible for a municipal skateboarding
facility;

(2) "injury" means property damage, personal injury, or death.

* Sec. 2. APPLICABILITY. This Act applies to a civil action that accrues on or after the
effective date of this Act.

* Sec. 3. This Act takes effect July 1, 1995.