SENATE CS FOR CS FOR HOUSE BILL NO. 146(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 5/7/99
Referred: Judiciary

Sponsor(s): REPRESENTATIVES KOTT, Dyson

A BILL

FOR AN ACT ENTITLED

"An Act relating to civil liability for commercial recreational activities; and providing for an effective date."

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

* Section 1. PURPOSE. It is the purpose of this Act to establish the responsibilities of persons who operate commercial recreational activities and persons who participate in those recreational activities and to decrease uncertainty regarding the legal responsibility for injuries that result from participation in commercial recreational activities. It is also the purpose of this Act to encourage the continued availability of businesses that offer commercial recreational activities to the public.

* Sec. 2. AS 05 is amended by adding a new chapter to read:

Chapter 50. Civil Liability for Commercial Recreational Activities.

Sec. 05.50.010. Acceptance of inherent risks. Participation in a commercial recreational activity constitutes acceptance of the inherent risks of the commercial
recreational activity that are or should be apparent to an ordinarily prudent person.

Sec. 05.50.020. Contributory negligence. (a) A person who accepts an inherent risk of a commercial recreational activity as described in AS 05.50.010 is contributorily negligent to the extent that the inherent risk causes injury, death, or property damage.

(b) In an action seeking to recover damages for injury or death to a person or harm to property resulting from an inherent risk of a commercial recreational activity, compensatory damages shall be reduced for contributory negligence as provided under AS 09.17.060.

Sec. 05.50.030. Responsibilities of participants. A participant in a commercial recreational activity has the responsibility to

1. learn about and expressly accept the risks of the activities;
2. act within the limits of the person’s abilities and as allowed by the person's health;
3. heed all warnings regarding participation in the commercial recreational activity;
4. maintain control of the participant’s person, a minor under the control of the participant, and any equipment, devices, or animals the participant is using or that are under the control of the participant;
5. refrain from acting in a manner that may cause or contribute to injury of the participant or another person.

Sec. 05.50.040. Responsibilities of operators of commercial recreational activities. A person who operates a business that offers a commercial recreational activity shall

1. explain to a participant
   (A) the fundamental inherent risks of the commercial recreational activity; and
   (B) the skills and equipment required to participate in the commercial recreational activity that are not apparent to an inexperienced participant;
2. require that employees who are responsible for assisting participants
in the actual performance of a commercial recreational activity have training in basic
first aid and cardiopulmonary resuscitation and explain to those employees how to use
emergency medical services available in the area;
(3) maintain recreational equipment and facilities in good repair;
(4) provide trained and competent personnel; and
(5) act in a reasonably safe and competent manner.

Sec. 05.50.050. Interaction with other laws. This chapter does not affect the
immunity of an owner of unimproved land under AS 09.65.200 or of a ski area
operator under AS 05.45.

Sec. 05.50.060. Effect of violations. A person who operates a business that
offers a commercial recreational activity and who violates AS 05.50.040 is negligent
and civilly liable to the extent the violation causes injury to a person or damage to
property.

Sec. 05.50.100. Definitions. In this chapter,
(1) "commercial recreational activity" means a recreational activity for
which the participants pay compensation;
(2) "recreational activity" means an outdoor activity undertaken for the
purpose of exercise, education, relaxation, pleasure, sport, or as a hobby.

* Sec. 3. This Act applies to acts or omissions that occur on or after the effective date of
this Act.

* Sec. 4. This Act takes effect July 1, 1999.