

CS FOR HOUSE BILL NO. 12(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/6/98

Referred: Rules

Sponsor(s): REPRESENTATIVES DAVIS, Hudson, James

A BILL

FOR AN ACT ENTITLED

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

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

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

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

11 **Chapter 50. Civil Liability for Commercial**

12 **Recreational Activities.**

13 **Sec. 05.50.010. Acceptance of inherent risks.** Participation in a commercial
14 recreational activity constitutes acceptance of the inherent risks of the commercial

1 recreational activity that are or should be apparent to an ordinarily prudent person.

2 **Sec. 05.50.020. Contributory negligence.** A person who accepts an inherent
3 risk of a commercial recreational activity as described in AS 05.50.010 is
4 contributorily negligent to the extent that the inherent risk causes injury, death, or
5 property damage. In an action seeking to recover damages for injury or death to a
6 person or harm to property resulting from an inherent risk of a commercial recreational
7 activity, compensatory damages shall be reduced for contributory negligence as
8 provided under AS 09.17.060. In this section, "compensatory damages" do not include
9 benefits paid under an insurance policy.

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

- 12 (1) learn about and expressly accept the risks of the activities;
- 13 (2) act within the limits of the person's abilities;
- 14 (3) heed all warnings regarding participation in the commercial
15 recreational activity;
- 16 (4) maintain control of the participant's person, the participant's
17 children, and any equipment, devices, or animals the participant is using;
- 18 (5) refrain from acting in a manner that may cause or contribute to
19 injury of the participant or another person.

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

- 23 (1) explain to a participant the
 - 24 (A) fundamental inherent risks of the commercial recreational
25 activity; and
 - 26 (B) skills or equipment required to participate in the commercial
27 recreational activity that are not apparent to an inexperienced participant;
- 28 (2) require that employees who are responsible for assisting participants
29 in the actual performance of a commercial recreational activity have training in basic
30 first aid and cardiopulmonary resuscitation and explain to those employees how to use
31 emergency medical services available in the area;

- 1 (3) maintain recreational equipment and facilities in good repair;
- 2 (4) provide trained and competent personnel; and
- 3 (5) act in a reasonably safe and competent manner.

4 **Sec. 05.50.050. Interaction with other laws.** This chapter does not affect the
5 immunity of an owner of unimproved land under AS 09.65.200 or of a ski area
6 operator under AS 05.45.010.

7 **Sec. 05.05.100. Definitions.** In this chapter,

- 8 (1) "children" means persons under 18 years of age;
- 9 (2) "commercial recreational activity" means a recreational activity for
10 which the participants pay compensation;
- 11 (3) "recreational activity" means an outdoor activity undertaken for the
12 purpose of exercise, education, relaxation, pleasure, or sport or as a hobby.

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

15 * **Sec. 4.** This Act takes effect July 1, 1998.