

CS FOR HOUSE BILL NO. 30(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/21/97
Referred: Finance

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

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

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

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

5 **Chapter 50. Skateboard Liability and Responsibility.**

6 **Sec. 05.50.010. Limitation on actions arising from skateboarding.**

7 Notwithstanding any other provision of law, a person may not bring an action against
8 a municipality for an injury occurring at a municipal skateboard facility if the injury
9 results from an inherent danger and risk of skateboarding.

10 **Sec. 05.50.020. Effect of violations.** (a) A municipality or person who
11 violates a requirement of this chapter is negligent and civilly liable to the extent the
12 violation causes injury to a person or damage to property.

13 (b) Notwithstanding the provisions of AS 09.17.080,

14 (1) the limitation of liability described under AS 05.50.010 is a

1 complete defense in an action against a municipality for an injury if an inherent danger
 2 or risk of skateboarding is determined to be a contributory factor in the resulting
 3 injury, unless the municipality has violated a requirement of this chapter;

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

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

11 **Sec. 05.50.030. Duties of municipal skateboard facility users.** (a) A person
 12 may not use a municipal skateboard facility if the person

13 (1) does not have sufficient physical dexterity or ability and knowledge
 14 to negotiate or use the facility safely; in the case of a minor who uses a municipal
 15 skateboard facility, the minor's parent or legal guardian is responsible for determining
 16 whether the minor satisfies the requirements of this paragraph;

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

19 (b) A person using a municipal skateboard facility may not

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

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

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

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

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

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

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

30 (8) use other items including but not limited to bicycles, unicycles,
 31 coasters, roller skates, or roller blades at the facility unless otherwise allowed by the

1 municipality.

2 **Sec. 05.50.040. Duties of municipalities.** (a) In a municipal skateboard
3 facility, a municipality shall maintain a sign system with concise, simple, and pertinent
4 information for the protection and instruction of skateboarders. Signs shall be
5 prominently placed at each facility.

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

8 **WARNING**

9 Under Alaska law, the risk of an injury to person or property
10 resulting from any of the inherent dangers of skateboarding rests
11 with the skateboarder. Inherent dangers and risks of
12 skateboarding include collisions with man-made objects,
13 collisions with other skateboarders, variations in slope, falling,
14 and the failure of skateboarders to skate within their own
15 abilities.

16 (c) A municipality shall clearly delineate the boundaries of a municipal
17 skateboard facility with fencing or another type of enclosing or surrounding structure.

18 (d) A municipality may not construct or maintain a municipal skateboard
19 facility in a negligent manner.

20 **Sec. 05.50.050. Duties and responsibilities of skateboarders.** A skateboarder
21 who uses a municipal skateboard facility

22 (1) is responsible for knowing the range of the person's own ability to
23 negotiate a skateboard facility and to skateboard within the limits of a skateboarder's
24 ability; in the case of a skateboarder who is a minor, the minor's parent or legal
25 guardian is responsible for determining whether the minor satisfies the requirements
26 of this paragraph;

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

1 inherent danger or risk of skateboarding in an action by one skateboarder against
2 another;

3 (3) has the duty to

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

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

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

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

19 (4) may not

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

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

25 **Sec. 05.50.060. Competition: immunity for municipality operating a**
26 **skateboard facility.** (a) A municipality shall, before beginning skateboard
27 competition at a municipal skateboard facility, allow an athlete who will skateboard
28 in the competition a reasonable visual inspection of the course or area where the
29 competition is to be held.

30 (b) A person skateboarding in competition assumes the risk of all course or
31 area conditions, course construction or layout, and obstacles that a visual inspection

1 would have revealed. A municipality is not liable for injury to a person who
2 skateboarded in competition at a skateboard facility operated by the municipality and
3 who is injured as a result of a risk described in this subsection.

4 **Sec. 05.50.100. Definitions.** In this chapter,

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

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

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

16 * **Sec. 3.** This Act takes effect July 1, 1997.