

CS FOR HOUSE BILL NO. 30(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/6/97
Referred: Rules

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for certain skating and cycling activities; and**
2 **providing for an effective 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. Municipal Skating and Cycling Liability and Responsibility.**

6 **Sec. 05.50.010. Limitation on actions arising from recreational activities.**

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 skating and cycling facility if the
9 injury results from an inherent danger and risk of using the facility.

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 the skating or cycling activity is determined to be a contributory factor in
 3 the resulting 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 skating and cycling facility users.** A
 12 person using a municipal skating or cycling facility may not

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

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

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

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

19 (5) engage in conduct that may contribute or cause injury to a person
 20 other than those associated with inherent dangers and risks of the activity; for purposes
 21 of this paragraph, an injury that results from a violation of the rules of the activity is
 22 not one that is associated with inherent dangers and risks of the activity;

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

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

26 **Sec. 05.50.040. Duties of municipalities.** (a) In a municipal skating or
 27 cycling facility, a municipality shall maintain a sign system with concise, simple, and
 28 pertinent information for the protection and instruction of a person who uses the
 29 facility. Signs shall be prominently placed at each facility.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

WARNING

Under Alaska law, the risk of an injury to person or property resulting from any of the inherent dangers of using a municipal skating or cycling facility rests with the user. Inherent dangers and risks of using the facility include collisions with man-made objects, collisions with other persons, variations in slope, falling, and the failure of a person to recreate within their own abilities.

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

(d) A municipality may not construct or maintain a municipal skating or cycling facility in a negligent manner.

Sec. 05.50.050. Skating and cycling duties and responsibilities. (a) A person who is skating or cycling at a municipal skating or cycling facility

(1) is responsible for knowing the range of the person's own ability to negotiate a skating or cycling facility and to recreate within the limits of the person's ability; in the case of a minor, the minor's parent or legal guardian is responsible for determining whether the minor satisfies the requirements of this paragraph;

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

(3) has the duty to

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

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

(C) ensure that all areas of the facility the person intends to use

1 are free and clear of natural or manmade debris that would interfere with the
2 person's use of the facility;

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

9 (4) may not use a skating or cycling facility

10 (A) while the person's ability is impaired by the influence of
11 alcohol or a controlled substance as defined in AS 11.71.900 or other drugs;

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

17 (C) if the person is not wearing knee pads, elbow pads, shoes,
18 and a helmet at all times.

19 (b) A person may not skateboard or cycle at a municipal skating or cycling
20 facility if the facility has been posted as "closed."

21 **Sec. 05.50.060. Competition: immunity for municipality operating a**
22 **skating or cycling facility.** (a) A municipality shall, before beginning recreational
23 competition at a municipal skating or cycling facility, allow an athlete who will
24 participate in the competition a reasonable visual inspection of the course or area
25 where the competition is to be held.

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

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

1 (1) "inherent dangers and risks of the activity" means a danger or
2 condition that is an integral part of the activity, including collisions with man-made
3 objects; impact with ramps, signs, posts, fences, or enclosures, or other man-made
4 structures and their components; variations in slope and steepness; collisions with other
5 persons; and the failure of a person to perform the activity within their own abilities;
6 the term "inherent dangers and risks of the activity" does not include the negligence
7 of a municipality that is responsible for a municipal facility;

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

9 (3) "skating or cycling" means skateboarding, cycling, coasting, roller-
10 skating, or in-line skating or a combination of those activities.

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

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