

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

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) A person who accepts an
3 inherent 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.

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

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 and as allowed by the
14 person's health;

15 (3) heed all warnings regarding participation in the commercial
16 recreational activity;

17 (4) maintain control of the participant's person, a minor under the
18 control of the participant, and any equipment, devices, or animals the participant is
19 using or that are under the control of the participant;

20 (5) refrain from acting in a manner that may cause or contribute to
21 injury of the participant or another person.

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

25 (1) explain to a participant

26 (A) the fundamental inherent risks of the commercial
27 recreational activity; and

28 (B) the skills and equipment required to participate in the
29 commercial recreational activity that are not apparent to an inexperienced
30 participant;

31 (2) require that employees who are responsible for assisting participants

1 in the actual performance of a commercial recreational activity have training in basic
 2 first aid and cardiopulmonary resuscitation and explain to those employees how to use
 3 emergency medical services available in the area;

4 (3) maintain recreational equipment and facilities in good repair;

5 (4) provide trained and competent personnel; and

6 (5) act in a reasonably safe and competent manner.

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

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

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

15 (1) "commercial recreational activity" means a recreational activity for
 16 which the participants pay compensation;

17 (2) "recreational activity" means an outdoor activity undertaken for the
 18 purpose of exercise, education, relaxation, pleasure, sport, or as a hobby.

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

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