

HOUSE CS FOR CS FOR SENATE BILL NO. 98(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/13/03

Referred: Rules

Sponsor(s): SENATORS BUNDE, Wilken, Seekins, Cowdery, Ogan

REPRESENTATIVES McGuire, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for boat owners and to civil liability for guest
2 passengers on an aircraft or watercraft; and providing for an effective date."

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

4 * **Section 1.** AS 05.25.040 is amended to read:

5 **Sec. 05.25.040. Owner's civil liability.** Except as provided under
6 AS 09.65.112, the [THE] owner of a boat is liable for injury or damage caused by the
7 negligent operation of the owner's boat whether the negligence consists of a violation
8 of a state statute or the failure to exercise ordinary care in the operation of the boat as
9 the rules of the common law require. The owner is not liable, however, unless the
10 boat is used with the owner's express or implied consent. It is presumed that the boat is
11 being operated with the knowledge and consent of the owner if, at the time of the
12 injury or damage, it is under the control of the owner's spouse, father, mother, brother,
13 sister, son, daughter, or other member of the owner's immediate family. This chapter
14 does not relieve any other person from a liability that the person would otherwise

1 incur and does not authorize or permit recovery in excess of injury or damage actually
2 incurred.

3 * **Sec. 2.** AS 09.65 is amended by adding a new section to read:

4 **Sec. 09.65.112. Civil liability for aircraft and watercraft guest passengers.**

5 (a) An owner or operator of an aircraft or watercraft is not liable for the civil damages
6 of a person being transported in the owner's or operator's aircraft or watercraft if the
7 aircraft or watercraft is not being used for commercial purposes.

8 (b) This section does not apply to a civil action

9 (1) for damages resulting from

10 (A) gross negligence or reckless or intentional misconduct;

11 (B) an act or omission of an owner or operator of an aircraft or
12 watercraft if the aircraft or watercraft is being operated as a common carrier; or

13 (C) an act or omission of an owner or operator of an aircraft or
14 watercraft that occurs while demonstrating an aircraft or watercraft to a
15 prospective buyer; or

16 (2) described under (a) of this section if the owner or operator

17 (A) has insurance that would compensate the claimant for civil
18 damages awarded against the owner or operator; an owner or operator who is
19 insured as described in this subparagraph is not liable for civil damages
20 described in (a) of this section that exceed the applicable insurance; or

21 (B) does not have insurance that would compensate a person
22 being transported as described under (a) of this section for civil damages
23 awarded against the owner or operator and, before the person being transported
24 enters the aircraft or watercraft, the owner or operator fails to provide notice to
25 the person being transported that the owner or operator is uninsured as
26 described in this subparagraph.

27 * **Sec. 3.** Section 9, ch. 28, SLA 2000 is amended to read:

28 Sec. 9. AS 05.25.040 is repealed and reenacted to read:

29 **Sec. 05.25.040. Owner's civil liability. Except as provided under**
30 **AS 09.65.112, the** [THE] owner of a watercraft is liable for injury or damage caused
31 by the negligent operation of the owner's watercraft whether the negligence consists of

1 a violation of a state statute or neglecting to observe ordinary care in the operation of
2 the watercraft as the rules of the common law require. The owner is not liable,
3 however, unless the watercraft is used with the owner's express or implied consent. It
4 is presumed that the watercraft is being operated with the knowledge and consent of
5 the owner if, at the time of the injury or damage, it is under the control of the owner's
6 spouse, father, mother, brother, sister, son, daughter, or other member of the owner's
7 immediate family. This chapter does not relieve any other person from a liability that
8 the person would otherwise incur and does not authorize or permit recovery in excess
9 of injury or damage actually incurred.

10 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 APPLICABILITY. This Act applies only to causes of action that accrue on or after
13 the effective date of the applicable section of this Act.

14 * **Sec. 5.** Section 3 of this Act takes effect on the date sec. 9, ch. 28, SLA 2000, takes
15 effect.

16 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect July 1, 2003.