

(LIMITED RUN FOR ALL ADDITIONAL SPONSORSHIPS)

HOUSE CS FOR CS FOR SENATE BILL NO. 175(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/18/03

Referred: Rules

Sponsor(s): SENATOR SEEKINS

REPRESENTATIVE Chenault

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for inherent risks in sports or recreational activities."**

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

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 FINDINGS AND INTENT. (a) The legislature finds that

6 (1) all sports or recreational activities involve inherent risks that provide the
7 challenge and excitement that entice people to participate in those activities;

8 (2) people should accept the risks inherent in sports or recreational activities
9 and be responsible for injuries and damages resulting from those inherent risks;

10 (3) the state has a legitimate interest in maintaining the economic viability of
11 the sports or recreational activities industry by discouraging claims based on injuries and
12 damages resulting from risks inherent in sports or recreational activities;

13 (4) providers of sports or recreational activities should not be required to alter
14 the challenge and excitement of the activities by controlling risks inherent in the activities;

15 and

1 (5) the liability of providers of sports or recreational activities should be
 2 limited to negligence that is not associated with the inherent risks of sports or recreational
 3 activities.

4 (b) It is the intent of this Act to

5 (1) limit or eliminate the liability of a provider of a sports or recreational
 6 activity to a participant in the activity when an injury or damage caused by or to the
 7 participant is the result of risks inherent in the activity; and

8 (2) encourage the broad construction of the Act to shield providers of sports or
 9 recreational activities from liability for injuries and damages caused by the inherent risks of
 10 sports or recreational activities.

11 * **Sec. 2.** AS 05.25.040 is amended to read:

12 **Sec. 05.25.040. Owner's civil liability. Except as provided under**
 13 **AS 09.65.290, the** [THE] owner of a boat is liable for injury or damage caused by the
 14 negligent operation of the owner's boat whether the negligence consists of a violation
 15 of a state statute or the failure to exercise ordinary care in the operation of the boat as
 16 the rules of the common law require. The owner is not liable, however, unless the
 17 boat is used with the owner's express or implied consent. It is presumed that the boat
 18 is being operated with the knowledge and consent of the owner if, at the time of the
 19 injury or damage, it is under the control of the owner's spouse, father, mother, brother,
 20 sister, son, daughter, or other member of the owner's immediate family. This chapter
 21 does not relieve any other person from a liability that the person would otherwise
 22 incur and does not authorize or permit recovery in excess of injury or damage actually
 23 incurred.

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

25 **Sec. 09.65.290. Civil liability for sports or recreational activities.** (a) A
 26 person who participates in a sports or recreational activity assumes the inherent risks
 27 in that sports or recreational activity and is legally responsible for all injuries or death
 28 to the person or other persons and for all damage to property that results from the
 29 inherent risks in that sports or recreational activity.

30 (b) This section does not require a provider to eliminate, alter, or control the
 31 inherent risks within the particular sports or recreational activity that is provided.

1 (c) This section does not apply to a civil action based on the
 2 (1) negligence of a provider if the negligence was the proximate cause
 3 of the injury, death, or damage; or

4 (2) design or manufacture of sports or recreational equipment or
 5 products or safety equipment used incidental to or required by a sports or recreational
 6 activity.

7 (d) Nothing in this section shall be construed to conflict with or render as
 8 ineffectual a liability release agreement between a person who participates in a sports
 9 or recreational activity and a provider.

10 (e) In this section,

11 (1) "inherent risks" means those dangers or conditions that are
 12 characteristic of, intrinsic to, or an integral part of a sport or recreational activity;

13 (2) "provider" means a person or a federal, state, or municipal agency
 14 that promotes, offers, or conducts a sports or recreational activity, whether for pay or
 15 otherwise;

16 (3) "sports or recreational activity"

17 (A) means a commonly understood sporting activity, whether
 18 undertaken with or without permission, including baseball, softball, football,
 19 soccer, basketball, hockey, bungee jumping, parasailing, bicycling, hiking,
 20 swimming, skateboarding, horseback riding and other equine activity, dude
 21 ranching, mountain climbing, river floating, whitewater rafting, canoeing,
 22 kayaking, hunting, fishing, backcountry trips, mushing, backcountry or
 23 helicopter-assisted skiing, alpine skiing, nordic skiing, snowboarding,
 24 telemarking, snow sliding, snowmobiling, off-road and all-terrain vehicle use;

25 (B) does not include

26 (i) boxing contests, sparring or wrestling matches or
 27 exhibitions that are subject to the requirements of AS 05.10;

28 (ii) activities involving the use of devices that are
 29 subject to the requirements of AS 05.20; or

30 (iii) skiing or sliding activities at a ski area that are
 31 subject to the requirements of AS 05.45.

1 * **Sec. 4.** Section 9, ch. 28, SLA 2000 is amended to read:

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

3 **Sec. 05.25.040. Owner's civil liability. Except as provided under**
4 **AS 09.65.290, the** [THE] owner of a watercraft is liable for injury or damage caused
5 by the negligent operation of the owner's watercraft whether the negligence consists of
6 a violation of a state statute or neglecting to observe ordinary care in the operation of
7 the watercraft as the rules of the common law require. The owner is not liable,
8 however, unless the watercraft is used with the owner's express or implied consent. It
9 is presumed that the watercraft is being operated with the knowledge and consent of
10 the owner if, at the time of the injury or damage, it is under the control of the owner's
11 spouse, father, mother, brother, sister, son, daughter, or other member of the owner's
12 immediate family. This chapter does not relieve any other person from a liability that
13 the person would otherwise incur and does not authorize or permit recovery in excess
14 of injury or damage actually incurred.

15 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **APPLICABILITY.** This Act applies to acts or omissions that occur on or after the
18 effective date of sec. 3 of this Act.