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SB 89

Dealing With: ZOO and ZOO operator civil liability.

Sponsors: FAIKS

Cost: 0

Supporters/ Opponents: AK. ZOO SUPPORTS
NO OTHER COMMENT IN SYS.

Description: Person may not recover Damages if Damages occurred as an inherent RISK OF Attendance at a zoo.

INHERENT RISK Means: Dangers or conditions That are an integral part of a zoo and The physical Proximity of WILD Animals.

Doesn't Relieve zoo's OF Negligence.

AK. ZOO IS CURRENTLY THE ONLY ONE AFFECTED.

DIRECTED AT Those who PUT Their hands Through The Bars or ENTER The Cage when The zoo has in place all Safety Requirements.

Alaska State Legislature

Chairman
(907) 465-4523



Jan Faiks
Post Office Box V
Juneau, Alaska 99811

Senate Judiciary Committee

January 26, 1989

MEMORANDUM

TO: Representative Dave Donley, Chairman
House Labor and Commerce Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee *Jan Faiks*

SUBJECT: SB 89 An Act relating to civil liability of
zoos and zoo operators

SB 89 has been referred to the House Labor and Commerce Committee for consideration. This bill is identical to HCS SB 223 (L&C), which was passed out of your committee late last session. The purpose of this bill is to modify the civil liability of zoos and zoo operators in Alaska.

SB 89 addresses the standard of care to be applied in liability cases which may be brought against zoos and zoo operators.

It provides that a zoo operated by a government entity or a nonprofit organization may not be held absolutely liable for personal or property injuries sustained as a result of an inherent risk of attendance at the zoo. Recovery for damages must be based upon negligence on the part of the zoo operator. Accordingly, the bill requires the zoo operator to use reasonable care to prevent the injury, and to post warning signs at prominent places within the zoo and at each entrance.

"Inherent risk of attendance" is defined as the dangers or conditions that are an integral part of the physical proximity of wild animals.

There are two theories of liability which have been applied to

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such keepers of wild animals. The rule of "absolute liability" is that one who keeps wild animals on his premises must see to it at his peril that they do no damage to others. Stated differently, one who harbors a wild animal, which by its very nature is vicious and unpredictable, does so at his peril, and liability for injuries inflicted by such animal is absolute, regardless of fault.

This theory of "absolute liability" has been refuted in several cases throughout the country involving city-owned zoos, in favor of a duty of reasonable care. The argument that maintenance of a caged polar bear creates absolute liability for any injuries sustained was first rejected in a 1952 California case. The court found that the bear was properly caged and that the injury occurred when the victim strained against the barrier and brought his hand close to the bear's mouth in trying to feed it sugar. McKinney v. City and County of San Francisco, 241 P.2d 1060 (Cal. 1952). The most recent case on point, Kennedy v. City and County of Denver, 506 P.2d 764 (Colo. App. 1972), held that the rule of absolute liability does not extend to situations where a municipality maintains and operates a zoo for the benefit of the public and in response to the public's obvious desires. The wild animal rule has been held inapplicable in the context of today's society and present zoological techniques, as it would be unrealistic to hold that operation of a municipal zoo exposes the public to inordinate risk. City and County of Denver v. Kennedy, 476 P.2d 762 (Colo. App. 1970).

However, that line of cases has been applied only to zoos which are owned by municipalities. There are no city-owned zoos in Alaska; the Alaska Zoo is owned and operated by a nonprofit organization for the benefit of the public.

The purpose of this legislation is to hold the Alaska Zoo, and other zoos which may be established in Alaska by government entities or nonprofit organizations, to a standard of reasonable care, rather than to the theory of absolute liability. I believe that it is reasonable to hold zoos operated by nonprofit organizations to the same standard of care to which a government-operated zoo would be held by the common law.

I would appreciate the committee's consideration of this bill at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 89
PUBLISH DATE: 1/20/89

FISCAL NOTE

REQUEST: _____

REVISION DATE: _____
TITLE: Civil liability of zoos
and zoo operators

AGENCY: Alaska Court System
BRU: Trial Courts

SPONSOR: Faiks
REQUESTOR: Senate Judiciary Cmte

COMPONENTS: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERS. SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND/BUILD.						
GRANTS/CLAIMS						
MISCELLANEOUS						
TOTAL	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS:

PREPARED BY: Janice C. Lark
Senator Jan Faiks, Chairman
Senate Judiciary Committee

DATE: 1/19/89

PHONE NO.: 465-4523