

HB

30

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 21, 1997

FURTHER REFERRALS:

Date of Committee Action: 3/5/97

The FINANCE Committee considered:

HB 30

HOUSE BILL NO. 30

CIVIL LIABILITY FOR SKATEBOARDING

“An Act relating to civil liability for skateboarding; and providing for an effective date.”

recommends it be replaced with the following committee substitute CS HB 30 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

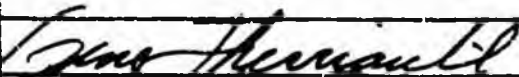
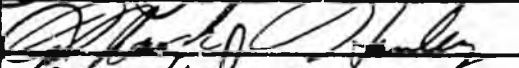
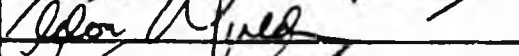

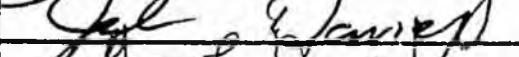

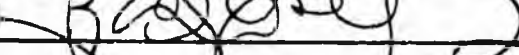
APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____


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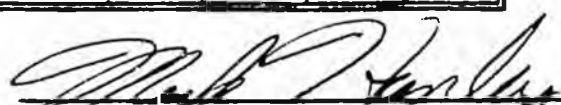
zero fiscal note(s) _____

zero fiscal note(s) Legislative 3/31/97
AK COURT 3/31/97

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 Therria Witt	X			
 Hanley	X			
 Mulder	X			
 Kohring	X			
 J. Davies	X			
 G. Davis	X			
 FOSTER	X			

CO CHAIR'S SIGNATURE


 Therria Witt


 Hanley

FISCAL NOTE

No. 1
 Bill Version: CSHB 30 (L&C)
 (H) Publish Date: 1/31/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Civil liability for skateboarding BRU: Trial Courts
 Component: _____
 Sponsor: Rep. Mulder
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CL/IMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8228
 Agency: Alaska Court System Date: 01/28/97
 Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]* Date: 01/28/97
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

COMMITTEE COPY

FISCAL NOTE

No. 2

Bill Version: CSHB 30(L&C)

(H) Publish Date: 1/31/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.

Title: CIVIL LIABILITY FOR
STATE BOARDING
Sponsor: REP. MULDER
Requestor: L & C

Dept. Affected: NOLIF
BRU: _____
Components: _____
Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by:

Approved by:

Agency:

Tim Sullivan Staff Rep. Mulder
John Mulder 27 JAN 97
LEGISLATURE

Date: 27 JAN 97

Phone: 465-2647

Phone: 465-2647

0-LS0192\K
Ford
3/5/97

ddopted NO(0B)

CS FOR HOUSE BILL NO. 30()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

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:

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

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

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

(4) may not use a skating or cycling facility

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

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

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

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

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

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

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.



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT **CSHB 30 (JUD)**

by
Representative Eldon Mulder

CSHB 30 was introduced at the request of the Municipality of Anchorage.

The Municipality of Anchorage, City and Borough of Juneau and several other municipalities would like to create skateboard parks so skateboarders will have a place to ride, rather than using other areas designed for pedestrians. The municipalities are willing to develop areas suitable for skateboard riding if they can be insulated from liability for claims arising from hazards inherent in skateboarding.

The intent of CSHB 30 is to encourage the municipalities to proceed with development of areas for outdoor recreation without increasing their liability unnecessarily. The bill applies only to municipal skateboard parks.

This bill is patterned after the legislation passed providing this limited protection to ski areas. The protection from liability relates to inherent dangers and risks of skateboarding. The municipality is required to post signs warning that there are inherent risks to skateboarding and the liability rests with the skateboarder.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FX (907) 465-2029
Mail Stop 3101

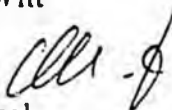
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 23, 1997

SUBJECT: Sectional Summary of HB 30

TO: Representative Eldon Mulder
Attn: Dennis DeWitt

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1

Sec. 05.50.010. - Prohibits a person from bringing a lawsuit against a municipality, for an injury resulting from an inherent danger and risk of skateboarding at a municipal skateboarding facility.

Sec. 05.50.020. - Describes the effect of a violation of AS 05.50. A municipality or other person who violates AS 05.50 is negligent and civilly liable to the extent the violation causes injury or property damage. Provides that if an injury occurs and an inherent danger and risk of skateboarding was a contributory factor or the injured person violated a provision of AS 05.50, that a municipality is not liable unless the municipality also violated a provision of AS 05.50.

Sec. 05.50.030. - Sets out the duties of a person who uses a municipal skateboarding facility.

Sec. 05.50.040. - Requires that municipalities maintain a sign system for protection and instruction of skateboarders.

Sec. 05.50.050. - Sets out the duties and responsibilities of a skateboarder who uses a municipal skateboarding facility.

Representative Eldon Mulder
January 23, 1997
Page 2

Sec. 05.50.060. - Requires that a municipality must allow a person participating in a skateboard competition to visually inspect the course or area. Provides that a person participating in a skateboard competition assumes certain risks and cannot hold the municipality liable for the assumed risks.

Sec. 05.50.100. - Definitions.

Section 2. Applicability section.

Section 3. Effective date.

MFF:jdr
97-042.jdr

**Municipality
of
Anchorage**



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4431
Fax: (907) 343-4499
<http://www.ci.anchorage.ak.us>

Rick Mystrom, Mayor

OFFICE OF THE MAYOR

January 23, 1997

Representative Eldon Mulder
Alaska State Legislature
Juneau, Alaska 99801-1182

Re: House Bill No. 30. "An Act relating to civil liability for skateboarding"

Dear Eldon:

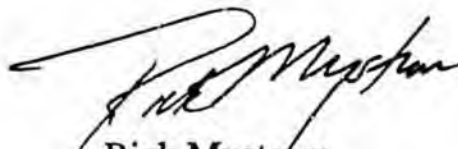
There is significant community interest in a municipal skateboard park and our 1997 Capital Improvement Budget includes plans for construction of one.

Like alpine skiing, skateboarding is an active sport that includes numerous inherent risks of injury. Before construction of a municipal skateboard park, the Municipality of Anchorage desires adoption of a statute that would insulate it from claims arising from the hazards inherent in skateboarding.

House Bill 30 helps fulfill that need and will eliminate a roadblock to the completion of this long awaited facility.

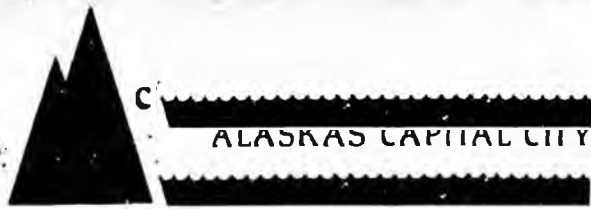
Thank you for your assistance with this legislation.

Sincerely,



Rick Mystrom
Mayor

"City of Lights and Flowers"



OFFICE OF THE MAYOR

January 27, 1997

The Honorable Eldon Mulder
Representative
Alaska State Legislature
Alaska State Capital, Rm 501
Juneau, Alaska 99801-1182

RE: House Bill 30

EL Don
Dear Representative Mulder:

On behalf of the City & Borough of Juneau Assembly, I am writing to express our support for House Bill 30, pending legislation limiting municipal liability for skate park operation. The introduction of this bill is timely for Juneau's youth; a group of students from Juneau Douglas High School has undertaken a class project to construct a skate facility on borough land. Of concern to the Borough Assembly is liability for skate park operation.

In their proposal for the skate park, the youth included a summary of survey data substantiating the need for the facility. From the data they gathered at three schools, we learned that over 80% of our youth roller skate, in-line skate, skate board or BMX bike. We suspect that recreation patterns in Juneau are similar to those in other Alaskan communities. Like other municipalities, we have no facility to accommodate these activities. An Alaska law limiting a municipality's exposure to liability for park operation will go a long way towards enabling us to accommodate our youth without breaking the budget.

Please contact me if I can provide additional information regarding our efforts to provide a venue for skating in Juneau. Thank you for your effort on behalf of Alaskan skaters.

Sincerely,

Dennis Egan
Dennis Egan
Mayor



January 29, 1997

Representative Eldon Mulder
State Capital
Juneau, AK 99801

Dear Representative Mulder:

Thank you for introducing HB 30, relating to civil liability for skateboarding. This issue is becoming increasingly important for municipalities around the state and we support its passage.

As stated in the 1997 AML Policy Statement, which was adopted unanimously by AML members at their November conference:

C. Liability Issues

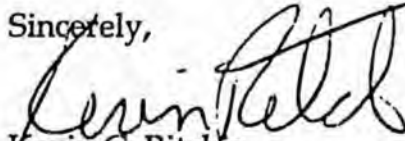
1. Liability for Injury in Recreational Activities: The League supports legislation that would limit the liability of a government, organization, volunteer, or private property owner providing recreational activities, facilities, and trail easements.

There is increasing pressure on local governments to provide additional recreational areas for young people, but they are reluctant to do so because of the unacceptable risk to their taxpayers. With passage of HB 30, those municipalities would be able to provide a safe place for skateboarders without putting the rest of the population at financial risk.

This issue is also a part of our 1997 Legislative Platform (attached). We believe providing recreational opportunities for youth will give communities more tools to help reduce youth crime.

Thanks again for your continued support.

Sincerely,



Kevin C. Ritchie
Executive Director

Attachment

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**Alaska Municipal League &
Alaska Conference of Mayors
1997 Legislative Platform**

1. Approval of the "Safe Communities" bill and maintain current funding for municipal revenue sharing to avoid further state generated local property tax increases. The "four legs" of the Safe Communities bill are:
 - Directs the funds to be used primarily for public safety and health services
 - Establishes a minimum sharing of \$40,000 for small municipalities
 - Removes the "hold harmless" to allow equal treatment to all municipalities
 - Distributes municipal funds on July 31 each year
2. Provide for the long term construction, operation, and maintenance of state and municipal airports, roads, and harbors, including revenue sharing programs for maintenance. Bring state harbors up to an adequate maintenance level through a statewide bond issue, or other funds, to prepare them for possible negotiated transfer to municipalities.
3. Approval of a Long Range Financial Plan that prohibits unfunded mandates and unfunded service responsibilities, adequately funds schools and maintenance of public infrastructure, reasonably reduces state expenses, protects the Permanent Fund, and phases in new tax revenue sources.
4. Actively encourage the construction of a natural gas pipeline with an emphasis on jobs for Alaskans.
5. Restore funding for Municipal Capital Matching Grant Program to \$20 million because local communities can most efficiently determine and meet local capital needs.
6. Create a permanent State/Local Government Partnership Council to negotiate methods to most efficiently provide public services at the lowest possible cost to taxpayers.
7. Provide long term funding of public safety and health services through the equitable sharing of increased statewide alcohol and tobacco taxes, and removing the current prohibition against municipalities voting for local special taxes on the sale or use of alcohol.
8. Reduce the state unfunded mandate for the Senior Citizen Property Tax exemption.
9. Adequately fund a program to construct efficient sanitation systems throughout Alaska.
10. Give communities more tools to reduce youth crime by limiting confidentiality of youth crime information: to protect the community, allow municipalities the option of assuming greater jurisdiction over juvenile justice, and limit liability for providing recreational opportunities for youth, such as skateboard parks.



CITY OF KODIAK
POST OFFICE BOX 1397, KODIAK, ALASKA 99615

February 12, 1997

Representative Eldon Mulder
Alaska State Legislature
Alaska State Capital, Rm 501
Juneau, Alaska 99801-1182

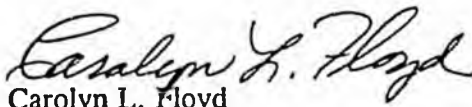
Dear Representative Mulder:

The City of Kodiak, not unlike many Alaska communities, has an active group of young people needing a place to skateboard. One of the major hurdles to building a facility has been the liability. House Bill 30 would remove some of the concern and permit consideration of such a facility on its merits. These young people have felt that it was a lack of interest or caring when in reality it was a fear of being sued for an inherently dangerous activity.

Your concern and efforts are recognized and appreciated.

Sincerely,

CITY OF KODIAK


Carolyn L. Floyd
Mayor

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Fax (907) 224-3248

February 12, 1997

Representative Eldon Mulder
Alaska State Legislature
Alaska State Capital, Rm 501
M/S 3100
Juneau, Alaska 99801-1182

RE: House Bill 30

Dear Representative Mulder:

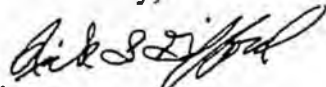
The City of Seward is in support of HB 30, relating to civil liability for skateboarding. Municipalities and taxpayers are deeply impacted by rising costs associated with claims. Since 1986, insurance and claim costs have been a major factor in municipal tax increases and have, in some cases, influenced communities to limit or eliminate recreation and other public services.

We are concerned for our youth, yet due to the increase in public liability, municipalities are reducing and/or eliminating recreational facilities and activities, such as skateboard parks, that would provide our youth with constructive activities instead of idle time which causes many of our youth to get in trouble in their communities.

Skateboarding, like alpine skiing, is an active sport that includes numerous inherent risks of injury. The sport is very popular among the youth in Seward and if we don't provide them a place to use, they will continue to use the streets, sidewalks, harbor and other public facilities that not only endanger the youth, but also the public who are using those facilities.

Thank you for your assistance with this legislation!

Sincerely,


for Ronald A. Garzini,
City Manager

RAG:rg

cc: Governor Tony Knowles
Senator John Torgerson
Representative Gary Davis
Seward Mayor and Council Members
Alaska Municipal League
Alaska Municipal League Joint Insurance Association