



AN ACT CREATING THE MONTANA RECREATION RESPONSIBILITY ACT; PROVIDING THAT A PERSON WHO ENGAGES IN A SPORT OR RECREATIONAL OPPORTUNITY ASSUMES THE INHERENT RISKS IN THAT SPORT OR RECREATIONAL OPPORTUNITY AND IS RESPONSIBLE FOR INJURIES AND DAMAGES RESULTING FROM THOSE INHERENT RISKS; LIMITING THE LIABILITY OF THE PROVIDERS OF A SPORT OR RECREATIONAL OPPORTUNITY; PROVIDING GOVERNMENTAL IMMUNITY; CLARIFYING THAT A PROVIDER IS NOT REQUIRED TO ELIMINATE, ALTER, OR CONTROL THE INHERENT RISKS WITHIN A PARTICULAR SPORT OR RECREATIONAL OPPORTUNITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, all sports and recreational activities involve inherent risks that provide the challenge and excitement that entice recreationists to participate in those activities; and

WHEREAS, recreationists should accept the risks inherent in sports and recreational activities and be responsible for injury or damage resulting from those inherent risks; and

WHEREAS, the state has a legitimate interest in maintaining the economic viability of the sports and recreational industries by discouraging claims based on damages resulting from risks inherent in a sport or recreational activity; and

WHEREAS, providers of recreational opportunities should not be required to alter the challenge and excitement of recreational activities by controlling risks inherent in the activities; and

WHEREAS, the liability of providers of recreational opportunities should be limited to negligence that is not associated with the inherent risks of a sport or recreational activity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 4] may be cited as the "Montana Recreation Responsibility Act".

Section 2. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Inherent risks" means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of any sport or recreational activity and that cannot be prevented by the use of reasonable care.

(2) "Provider" means a person, corporation, partnership, or other business entity, including a governmental entity as defined in 2-9-111, that promotes, offers, or conducts a sport or recreational opportunity, for profit or otherwise.

(3) "Sport or recreational opportunity" means any sporting activity, whether undertaken with or without permission, including but not limited to baseball, softball, football, soccer, basketball, bicycling, hiking, swimming, boating, hockey, dude ranching, nordic or alpine skiing, snow boarding, snow sliding, mountain climbing, river floating, whitewater rafting, canoeing, kayaking, target shooting, hunting, fishing, backcountry trips, horseback riding and other equine activity, snowmobiling, off-highway vehicle use, and any similar recreational activity.

Section 3. Limitation on liability in sport or recreational opportunity. (1) A person who participates in any sport or recreational opportunity assumes the inherent risks in that sport or recreational opportunity, whether those risks are known or unknown, and is legally responsible for all injury or death to the person and for all damage to the person's property that result from the inherent risks in that sport or recreational opportunity.

(2) A provider is not required to eliminate, alter, or control the inherent risks within the particular sport or recreational opportunity that is provided.

(3) [Sections 1 through 4] do not preclude an action based on the negligence of the provider if the injury, death, or damage is not the result of an inherent risk of the sport or recreational opportunity.

(4) [Sections 1 through 4] do not apply to a cause of action based on the design, manufacture, provision, or maintenance of sports or recreational equipment or products or safety equipment used incidental to or required by the sport or recreational activity.

Section 4. Recreational activity -- applicability exceptions. [Sections 1 through 3] do not apply to duties, responsibilities, liability, or immunity related to:

(1) recreational use of waters or land, as provided in 23-2-321;

(2) snowmobiling, as provided in 23-2-653 and 23-2-654;

(3) skiing, as provided in Title 23, chapter 2, part 7;

- (4) off-highway vehicle operation, as provided in 23-2-822;
- (5) instruction in firearms and hunter safety or hunter education, as provided in 27-1-721;
- (6) equine activity, as provided in 27-1-727;
- (7) sponsored rodeo and similar events, as provided in 27-1-733;
- (8) amusement rides, as provided in 27-1-743 and 27-1-744;
- (9) recreational use of land, as provided in 23-2-907, 70-16-302, 77-1-805, 87-1-266, 87-1-267, and 87-1-286;
- (10) wildcrafting, as provided in 76-10-106; and
- (11) placement of a sign or marker warning of a hazard in water legally accessible to the public, as provided in 87-1-287.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Two-thirds vote required. Because [section 3] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Section 8. Effective date. [This act] is effective on passage and approval.

Section 9. Applicability. [This act] applies to injuries and deaths that occur on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
HB 0150, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 150

INTRODUCED BY D. BROWN

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