

ASSEMBLY, No. 1583

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Limits liability for operators of buildings, facilities, or premises for certain sports, games, and amusement activities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT limiting liability for operators of buildings, facilities, or
2 premises for certain sports, games, and amusement activities, and
3 supplementing Title 5 of the Revised Statutes
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in this section:

9 “Inherent risk of a physically-exerting recreational activity”
10 means a danger to person or property which is an integral part of a
11 particular physically-exerting recreational activity, arising from
12 participating in or observing that recreational activity.

13 “Operator” means a person or entity who owns, manages,
14 controls, or directs the operation of a building, facility, or premises
15 used for sports, games, or amusement at which a participant may
16 engage in a physically-exerting recreational activity. An operator
17 shall include any person or entity acting on behalf of an operator
18 concerning some or all of the physically-exerting recreational
19 activities for a building, facility, or premises, and shall also include
20 the State and any agency or instrumentality thereof, and any
21 political subdivision of the State and any agency or instrumentality
22 thereof.

23 “Participant” means any person, whether an amateur or
24 professional, engaging in a physically-exerting recreational activity,
25 whether or not a fee is paid to an operator to engage in that activity.

26 “Physically-exerting recreational activity” means any activity
27 requiring a participant, as a patron, paying or otherwise, of a
28 building, facility, or premises used for sports, games, or
29 amusement, to use physical exertion to voluntarily engage in that
30 recreational activity, which is the intended recreational activity of
31 the building, facility, or premises. A physically-exerting
32 recreational activity shall include, but is not limited to, gymnastics,
33 football, baseball, softball, basketball, volleyball, soccer, lacrosse,
34 hockey, field hockey, tennis, racket ball, and other sports,
35 trampoline jumping, rope and rock climbing, bicycling, go-karting,
36 and other forms of racing.

37 “Spectator” means any person who is present within a building,
38 facility, or premises used for sports, games, or amusement at which
39 a participant may engage in a physically-exerting recreational
40 activity, for the purpose of observing the recreational activity
41 whether or not an invitee.

42 b. (1) Except as otherwise set forth under P.L.1979, c.29
43 (C.5:13-1 et seq.) concerning skiing, P.L.1997, c.287 (C.5:15-1 et
44 seq.) concerning equine animal activities, the “New Jersey Roller
45 Skating Rink Safety and Fair Liability Act,” P.L.1991, c.28
46 (C.5:14-1 et seq.), or any other law establishing or limiting the
47 liability of an operator of a building, facility, or premises that is
48 used for sports, games, or amusement related to a particular

1 physically-exerting recreational activity, a participant and a
2 spectator are deemed to assume any inherent risk of participating in
3 or observing a physically-exerting recreational activity. Each
4 participant is additionally assumed to know the range of his own
5 ability to participate in a physically-exerting recreational activity,
6 and it shall be the duty of each participant to act within the limits of
7 his own ability in order to refrain from acting in a manner which
8 may cause or contribute to the injury of the participant, other
9 participants, or spectators, or damage to the property thereof.

10 (2) The assumption of risk set forth in this subsection shall be a
11 complete bar of suit and shall serve as a complete defense to a suit
12 against an operator by a participant or spectator for injuries arising
13 from an assumed risk of a physically-exerting recreational activity,
14 notwithstanding the provisions of P.L.1973, c.146 (C.2A:15-5.1 et
15 seq.) relating to comparative negligence. Nothing in this subsection
16 shall immunize an owner against any liability arising from any act
17 of gross negligence, or willful or wanton misconduct.

18 (3) The limits on liability set forth in this subsection are
19 cumulative with the defenses available under the "New Jersey Tort
20 Claims Act," N.J.S.59:1-1 et seq., when that act is applicable.

21
22 2. This act shall take effect immediately.

23 24 25 STATEMENT

26
27 This bill would limit liability for operators of buildings,
28 facilities, or premises used for sports, games, or amusement at
29 which participants and spectators may engage in or observe
30 physically-exerting recreational activities. A "physically-exerting
31 recreational activity" is defined under the bill as any activity
32 requiring a participant, as a patron, paying or otherwise, of a
33 building, facility, or premises used for sports, games, or
34 amusement, to use physical exertion to voluntarily engage in that
35 recreational activity, which is the intended recreational activity of
36 the building, facility, or premises.

37 A physically-exerting recreational activity would include, but not
38 be limited to, gymnastics, football, baseball, softball, basketball,
39 volleyball, soccer, lacrosse, hockey, field hockey, tennis, racket
40 ball, and other sports, trampoline jumping, rope and rock climbing,
41 bicycling, go-karting, and other forms of racing. Any such activity
42 that is specifically subject to another statutory law detailing the
43 liabilities of owners, such as skiing (P.L.1979, c.29 (C.5:13-1 et
44 seq.)), roller skating (the "New Jersey Roller Skating Rink Safety
45 and Fair Liability Act," P.L.1991, c.28 (C.5:14-1 et seq.)), or equine
46 animal activities (P.L.1997, c.287 (C.5:15-1 et seq.)), would not be
47 covered by the provisions of the bill. This would leave intact the

1 establishment or limitations of owner liability provided by the
2 particulars of those other, specifically targeted statutory enactments.
3 Under the bill, a participant and a spectator of an applicable
4 recreational activity would be deemed to assume any inherent risk
5 of participating in or observing that activity. Each participant
6 additionally would be assumed to know the range of his own ability
7 to participate in the physically-exerting recreational activity, and it
8 would be the duty of each participant to act within the limits of his
9 own ability in order to refrain from acting in a manner which could
10 cause or contribute to the injury of the participant, other
11 participants, or spectators, or damage to the property thereof.
12 The assumption of risk set forth in the bill would be a complete
13 bar of suit and would serve as a complete defense to a suit against
14 an operator by a participant or spectator for injuries arising from an
15 assumed risk of a physically-exerting recreational activity,
16 notwithstanding the provisions of P.L.1973, c.146 (C.2A:15-5.1 et
17 seq.) relating to comparative negligence. However, nothing in the
18 bill would immunize an owner against any liability arising from any
19 act of gross negligence, or willful or wanton misconduct.
20 Because an owner is defined under the bill to include
21 governmental entities, and their agencies or instrumentalities, the
22 limits on liability set forth in the bill would also be deemed to be
23 cumulative with the defenses available under the “New Jersey Tort
24 Claims Act,” N.J.S.59:1-1 et seq., when that act is applicable.