

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H3/4/19 H3/6/19*

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

HOUSE BILL 1620

4

5 By: Representative Dotson

6 By: Senator B. Davis

7

8

## For An Act To Be Entitled

9 *AN ACT TO CREATE THE ARKANSAS CYCLING ACTIVITIES ACT;*

10 *AND FOR OTHER PURPOSES.*

11

12

13

## Subtitle

14

*TO CREATE THE ARKANSAS CYCLING ACTIVITIES*

15

*ACT.*

16

17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19

20 SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an

21 additional subchapter to read as follows:

22

### Subchapter 10

23

### – Arkansas Cycling Activities Act

24

25 16-120-1001. Title.

26 This subchapter shall be known and may be cited as "Arkansas Cycling

27 Activities Act".

28

29 16-120-1002. Definitions.

30 As used in this section:

31

(1) "Bicycle" means a human-powered vehicle:

32

(A) With two (2) or more wheels in tandem; and

33

(B) Designed to transport by the act of pedaling one (1)

34

or more persons seated on one (1) or more saddle seats on its frame;

35

(2) "Cycling activity" means riding a bicycle on a road, trail,

36

path, or other surface for:



1 (A) Competition, exercise, or other undertaking that  
2 involves a bicycle;

3 (B) A training or teaching activity; or

4 (C) A ride, trip, or other activity that is sponsored by a  
5 bicycle outfitter;

6 (3) "Inherent risk of a cycling activity" means the dangers or  
7 conditions that are an integral part of cycling activities on the roads,  
8 trails, paths, or other surfaces of the state, including without limitation:

9 (A) Injury or death caused by:

10 (i) A change or variation in the surface which may  
11 cause a participant to lose control, lose his or her balance, or crash the  
12 bicycle;

13 (ii) A collision with natural or man-made object on  
14 or adjacent to the cycling surface, including without limitation a;

15 (a) Tree;

16 (b) Rock; or

17 (c) Tree stump; or

18 (iii) A collision with a pedestrian, a vehicle, or  
19 another cyclist which may result in injury or death;

20 (B) Weather-related illnesses or conditions, including  
21 without limitation:

22 (i) Hypothermia;

23 (ii) Frostbite;

24 (iii) Heat exhaustion;

25 (iv) Heat stroke; or

26 (v) Dehydration;

27 (C) An act of nature, including without limitation:

28 (i) Falling rocks;

29 (ii) Inclement weather;

30 (iii) Thunder and lightning;

31 (iv) Severe or varied temperatures;

32 (v) Winds; or

33 (vi) Tornadoes;

34 (D) Operator error including equipment failure due to  
35 operator error;

36 (E) Attack or injury by an animal; or

1                   (F) The aggravation of an injury, illness, or condition  
2 because the injury, illness, or condition occurred in a remote place where  
3 medical facilities are not available;

4                   (4) "bicycle outfitter" means an individual, group, club,  
5 partnership, corporation, or business entity, whether or not operating for  
6 profit, or an employee or organized agent, that sponsors, organizes, rents,  
7 or provides to a participant the use of a bicycle; and

8                   (5) "Participant" means a person who rents, leases, or uses a  
9 bicycle provided by a bicycle outfitter whether or not a fee is paid.

10  
11                   16-120-1003. Liability of a bicycle outfitter.

12                   Except as provided in § 16-120-1004(b):

13                   (1)(A) A participant assumes the inherent risk of a cycling  
14 activity by engaging in the cycling activity.

15                   (B) A participant or a participant's representative shall  
16 not make a claim against, maintain an action against, or recover from a  
17 bicycle outfitter for the loss or damage or injury to or the death of the  
18 participant resulting from the inherent risk of a cycling activity; and

19                   (2) A bicycle outfitter is not liable for an injury to or the  
20 death of a participant resulting from the inherent risk of a cycling  
21 activity.

22  
23                   16-120-1004. Exclusions.

24                   This subchapter does not:

25                   (1) Apply to a relationship between an employer and employee  
26 under the Workers' Compensation Law, § 11-9-101 et seq.; and

27                   (2) Prevent or limit the liability of a bicycle outfitter or the  
28 bicycle outfitter's agent that:

29                   (A) Intentionally injures a participant;

30                   (B) Commits an act or omission of gross negligence  
31 concerning the safety of a participant that proximately causes injury to or  
32 the death of the participant;

33                   (C) Provides an unsafe bicycle to a participant and knew  
34 or should have known that the bicycle was unsafe to the extent that it could  
35 cause an injury;

36                   (D) Fails to provide a participant with a bicycle that

1 meets the equipment and manufacturing requirements for bicycles adopted by  
2 the United States Consumer Product Safety Commission under 16 C.F.R. Part  
3 1512 as it existed on January 1, 2017;

4 (E) Fails to use the degree of care that an ordinarily  
5 careful and prudent person would use under the same or similar circumstances;  
6 and

7 (F) Commits other acts, errors, or omissions that  
8 constitute willful or wanton misconduct, gross negligence, or criminal  
9 conduct that proximately causes injury, damage, or death.

10  
11 16-120-1005. Supplemental to other law

12 The limitation of liability provided by this section is in addition to  
13 any other limitation of liability provided by law.

14  
15 16-120-1006. Signage.

16 (f) A bicycle outfitter shall post and maintain signage in a clearly  
17 visible location at or near where the bicycle outfitter conducts cycling  
18 activities and in black letters at least one inch (1") high containing the  
19 following warning:

20 "WARNING -- Under Arkansas law, § 16-120-1003, the liability of a  
21 bicycle outfitter is limited. You are assuming the risk of participating in a  
22 cycling activity."

23  
24 */s/Dotson*