

1 State of Arkansas As Engrossed: H3/4/19 H3/6/19 S3/13/19
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:

32 (A) Two-wheeled vehicle with a rear drive wheel that is
33 solely human-powered; or

34 (B) Two-wheeled or three-wheeled vehicle with:

35 (i) Fully operable pedals and an electric motor of
36 less than seven hundred fifty watts (750 W); and



1 (ii) A maximum speed of less than twenty miles per
2 hour (20 m.p.h.) on a paved level surface when powered solely by an electric
3 motor and ridden by an operator who weighs one hundred seventy pounds (170
4 lbs.);

5 (2) "Cycling activity" means riding a bicycle on a road, trail,
6 path, or other surface for:

7 (A) Competition, exercise, or other undertaking that
8 involves a bicycle;

9 (B) A training or teaching activity; or

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

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

15 (A) Injury or death caused by:

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

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

21 (a) Tree;

22 (b) Rock; or

23 (c) Tree stump; or

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

26 (B) Weather-related illnesses or conditions, including
27 without limitation:

28 (i) Hypothermia;

29 (ii) Frostbite;

30 (iii) Heat exhaustion;

31 (iv) Heat stroke; or

32 (v) Dehydration;

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

34 (i) Falling rocks;

35 (ii) Inclement weather;

36 (iii) Thunder and lightning;

- 1 (iv) Severe or varied temperatures;
- 2 (v) Winds; or
- 3 (vi) Tornadoes;
- 4 (D) Operator error including equipment failure due to
- 5 operator error;
- 6 (E) Attack or injury by an animal; or
- 7 (F) The aggravation of an injury, illness, or condition
- 8 because the injury, illness, or condition occurred in a remote place where
- 9 medical facilities are not available;

10 (4) "bicycle outfitter" means an individual, group, club,

11 partnership, corporation, or business entity, whether or not operating for

12 profit, or an employee or organized agent, that sponsors, organizes, rents,

13 or provides to a participant the use of a bicycle; and

14 (5) "Participant" means a person who rents, leases, or uses a

15 bicycle provided by a bicycle outfitter whether or not a fee is paid.

16

17 16-120-1003. Liability of a bicycle outfitter.

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

19 (1)(A) A participant assumes the inherent risk of a cycling

20 activity by engaging in the cycling activity.

21 (B) A participant or a participant's representative shall

22 not make a claim against, maintain an action against, or recover from a

23 bicycle outfitter for the loss or damage or injury to or the death of the

24 participant resulting from the inherent risk of a cycling activity; and

25 (2) A bicycle outfitter is not liable for an injury to or the

26 death of a participant resulting from the inherent risk of a cycling

27 activity.

28

29 16-120-1004. Exclusions.

30 This subchapter does not:

31 (1) Apply to a relationship between an employer and employee

32 under the Workers' Compensation Law, § 11-9-101 et seq.; and

33 (2) Prevent or limit the liability of a bicycle outfitter or the

34 bicycle outfitter's agent that:

35 (A) Intentionally injures a participant;

36 (B) Commits an act or omission of gross negligence

1 concerning the safety of a participant that proximately causes injury to or
2 the death of the participant;

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

6 (D) Fails to provide a participant with a bicycle that
7 meets the equipment and manufacturing requirements for bicycles adopted by
8 the United States Consumer Product Safety Commission under 16 C.F.R. Part
9 1512 as it existed on January 1, 2017;

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

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

16
17 16-120-1005. Supplemental to other law

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

20
21 16-120-1006. Signage.

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

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

29
30 */s/Dotson*