

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 465

5 By: Senator B. Davis
6 By: Representative Dotson
7

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS CYCLING ACTIVITIES ACT;
9 AND FOR OTHER PURPOSES.
10

Subtitle

11 TO CREATE THE ARKANSAS CYCLING ACTIVITIES
12 ACT.
13

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an
19 additional subchapter to read as follows:
20

Subchapter 10

- Arkansas Cycling Activities Act

16-120-1001. Title.

21 This subchapter shall be known and may be cited as "Arkansas Cycling
22 Activities Act".
23

16-120-1002. Definitions.

As used in this section:

24 (1) "Cycling activity" means riding a bicycle on a road, trail,
25 path, or other surface for:
26

27 (A) Competition, exercise, or other undertaking that
28 involves a bicycle;
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30 (B) A training or teaching activity; or

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

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

5 (A) Injury or death caused by:

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

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

11 (a) Tree;

12 (b) Rock; or

13 (c) Tree stump; or

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

16 (B) Weather-related illnesses or conditions, including
 17 without limitation:

18 (i) Hypothermia;

19 (ii) Frostbite;

20 (iii) Heat exhaustion;

21 (iv) Heat stroke; or

22 (v) Dehydration;

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

24 (i) Falling rocks;

25 (ii) Inclement weather;

26 (iii) Thunder and lightning;

27 (iv) Severe or varied temperatures;

28 (v) Winds; or

29 (vi) Tornadoes;

30 (D) Operator error including equipment failure due to
 31 operator error;

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

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

36 (3) "bicycle outfitter" means an individual, group, club,

1 partnership, corporation, or business entity, whether or not operating for
2 profit, or an employee or organized agent, that sponsors, organizes, rents,
3 or provides to a participant the use of a bicycle; and

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

6
7 16-120-1003. Liability of a bicycle outfitter.

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

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

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

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

18
19 16-120-1004. Exclusions.

20 This subchapter does not:

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

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

25 (A) Intentionally injures a participant;

26 (B) Commits an act or omission of gross negligence
27 concerning the safety of a participant that proximately causes injury to or
28 the death of the participant;

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

32 (D) Fails to provide a participant with a bicycle that
33 meets the equipment and manufacturing requirements for bicycles adopted by
34 the United States Consumer Product Safety Commission under 16 C.F.R. Part
35 1512 as it existed on January 1, 2017;

36 (E) Fails to use the degree of care that an ordinarily

1 careful and prudent person would use under the same or similar circumstances;
2 and

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

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7 16-120-1005. Supplemental to other law

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

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11 16-120-1006. Signage.

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

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