

SUBJECT: Limiting liability of ice skating rink owners

COMMITTEE: State Recreational Resources — favorable, with amendment

VOTE: 8 ayes — Kuempel, McCall, Hilderbran, Horn, King, Longoria, Merritt, Palmer

0 nays

1 absent — Hightower

WITNESSES: For — Charles M. Collins, Chaparral Ice Center of Austin; Peter T. O'Heeron, Texas Ice Stadium

Against — None

DIGEST: HB 1955, as amended, would establish that a skating rink operator would not be liable for damages for personal injury, property damage, or death unless those damages were caused because the operator did not fulfill certain duties. The liability waiver would not apply to gross negligence, malice or intentional conduct. The bill would also require ice rinks to maintain liability of at least \$500,000 for personal injury, death, or property damage.

HB 1955 would require ice skating rink operators to provide at least one monitor for approximately every 200 ice skaters. The monitor's duties would include supervising skaters and spectators, posting signs concerning the duties of skaters and spectators, removing objects dropped on the ice in a timely fashion, and making sure the rink was in good condition. Monitors would also be required to comply with recent guidelines endorsed by the Ice Skating Institute of America, and wear something identifying them as a monitor.

Ice skaters at public facilities could not act in a manner that would cause injury to others and would, along with spectators, be required to comply with posted signs at the rink. Skaters would also be required to obey instructions given by ice rink personnel, maintain reasonable control over their speed and direction, avoid collisions by being reasonably aware of

other skaters or objects in the rink, and skate within the limits of their ability.

In determining whether children were violating these skating rink rules, their conduct would be evaluated based on age, experience, intelligence and capacity.

The bill, which would apply only to actions that would take place on or after the effective date of the bill, would take effect September 1, 1997.

**SUPPORTERS
SAY:**

HB 1955 would extend to ice skating rink operators the same kind of protection from liability that roller skating rink operators now enjoy. The bill would not shield skating rink operators from liability from gross negligence, malice or intentional conduct but merely protect them from nuisance lawsuits. The bill would also make rinks safer by establishing a number of rink regulations, including requiring rink monitors to supervise skaters and promptly retrieve objects that fall onto the ice.

Ice skating is a healthy, family activity and a growing industry in Texas, but it is hampered by a barrage of lawsuits filed by those who are unwilling to take responsibility for their own actions, and who hope to make money off the rink owner's insurance company. Skaters must assume a certain amount of risk when they engage in recreational activities like ice skating. When someone is learning to ice skate, it is reasonable to assume that they will take a few spills. Unless the injuries resulting from those falls are the result of gross negligence on the part of rink operators, there is no reason why they should be held responsible for them.

Unfortunately, all too many people look immediately to the rink's insurance company or the litigation process to pay for injuries that are a normal result of skating. Even if a case is without merit, rinks must still pay large legal fees to defend themselves. It is difficult for Texas rink operators to obtain reasonably priced liability insurance under these circumstances.

**OPPONENTS
SAY:**

Although it is reasonable to give rink owners some protection from liability, the bill should clarify that the rink operator's liability is limited only to the portions of the facility in which ice skating takes place. This would ensure that rink operators would not be limited from liability if the roof of

the facility caved in due to faulty construction, for example, or an accident occurred in the parking lot due to their negligence.

NOTES:

The committee amendment would state that an operator would not be shielded from liability for gross negligence, malice, or intentional conduct, require rinks to maintain \$500,000 in liability insurance, and specify that rink monitors would have to remove all objects dropped on the ice in a timely fashion.

The companion bill, SB 1104 by Patterson, was referred to the Senate State Affairs Committee.