

SUBJECT: Adding bicycling to the warning notice on certain outdoor public premises

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Hunter, Hughes, Hartnett, Leibowitz, Lewis, Madden, Martinez

0 nays

4 absent — Alonzo, Branch, Jackson, Woolley

WITNESSES: For — Robert Hanna, City of Weatherford; (*Registered, but did not testify*:
Monty Wynn, Texas Municipal League)

Against — None

On — Dennis Gissell, Texas Parks and Wildlife Department; (*Registered,
but did not testify*: Kevin Good, Texas Parks and Wildlife, State Parks)

BACKGROUND: Civil Practice and Remedies Code, ch. 75, the Recreational Use Statute, limits the liability of private landowners and governmental units that open their premises to the public for recreational activities such as fishing, hiking, and bicycling. The statute requires a governmental unit to post a clearly readable and visible warning sign on or near premises used for:

- hockey and in-line hockey;
- skating, in-line skating, roller-skating, skateboarding, and roller-blading;
- soap box derby use; and
- paintball use.

The warning sign must contain the following in capitalized letters:

“Texas Law (Chapter 75, Civil Practice and Remedies Code) limits the liability of a governmental unit for damages arising directly from hockey, in-line hockey, skating, in-line skating, roller-skating, skateboarding, roller-blading, paintball use, or soap box derby use on premises that the governmental unit owns, operates, or maintains for that purpose.”

DIGEST: CSHB 1898 would require that “bicycling activities” be added to the language contained on a warning notice posted on any outdoor premises owned, operated, or maintained by a governmental unit on which skating, in-line skating, roller-skating, skateboarding, and roller-blading were permitted.

The bill would take effect September 1, 2009.

SUPPORTERS SAY: The current warning language posted on publicly owned outdoor premises used for skating-related activities does not include bicycling, even though bicycling activities are common at these facilities. CSHB 1898 would close a potential avenue of liability for governmental units by specifically including bicycling activities in the warning sign posted on outdoor premises used for skating-related activities.

CSHB 1898 would not impose onerous new signage requirements upon governmental units. The committee substitute would not apply to all outdoor premises, just those outdoor premises used exclusively for skating-related activities. In most instances, the bill would apply only to skating parks. Although this would require some local governmental units to purchase new signage, the costs of the reworded signs would be far less than any costs incurred as a result of defending against a potential lawsuit.

OPPONENTS SAY: Although well intentioned, CSHB 1898 would require many local municipalities to spend taxpayer dollars on new signs. Because the current recreational use statute does not require a governmental unit to post a warning sign containing a list of all possible recreational activities for which limited liability applies, there is no legal need to add bicycling activities to warning signs.

NOTES: The committee substitute differs from the bill as filed by applying only to publicly owned outdoor premises for which recreational use of skating-related activities is permitted, while the original would have applied to all publicly owned premises.