

HOUSE BILL No. 1045

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-6-2; IC 34-31-11.

Synopsis: Recreational facility immunity. Specifies the duties and responsibilities of the users and the operator of a recreational facility operated by a postsecondary educational institution. Specifies that the operator of such a recreational facility who fulfills the operator's duties and responsibilities has a complete defense to a civil action. Makes conforming amendments.

Effective: July 1, 2015.

Morrison

January 6, 2015, read first time and referred to Committee on Judiciary.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1045



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-6-2-91, AS AMENDED BY P.L.77-2013,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]: Sec. 91. (a) "Operator", for purposes of IC 34-30-3,
- 4 means a person who is an owner, a lessee, a tenant, or an occupant of
- 5 land or premises that are used in the production of agricultural
- 6 products.
- 7 (b) "Operator", for purposes of IC 34-31-6, means a person or an
- 8 entity, other than a governmental entity or an employee of a
- 9 governmental entity, that owns, manages, controls, directs, or has
- 10 operational responsibility for a roller skating rink.
- 11 (c) "Operator", for purposes of IC 34-31-6.5, means an approved
- 12 postsecondary educational institution (as defined in IC 21-7-13-6) that
- 13 owns, manages, controls, directs, or has operational responsibility for
- 14 an ice skating rink.
- 15 (d) **"Operator", for purposes of IC 34-31-11, means an**



1 approved postsecondary educational institution (as defined in
2 IC 21-7-13-6) that owns, manages, controls, directs, or has
3 operational responsibility for a recreational facility.

4 SECTION 2. IC 34-6-2-129.4 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2015]: **Sec. 129.4. "Recreation", for purposes**
7 **of IC 34-31-11, includes physical exercise, leisure, or sports.**

8 SECTION 3. IC 34-6-2-129.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2015]: **Sec. 129.5. "Recreational facility", for**
11 **purposes of IC 34-31-11, means a building, location, or area**
12 **primarily designed and used for purposes of recreation. The term**
13 **includes:**

- 14 (1) a gymnasium;
- 15 (2) a park;
- 16 (3) a playground;
- 17 (4) a swimming pool;
- 18 (5) a fieldhouse;
- 19 (6) a beach;
- 20 (7) a stadium;
- 21 (8) a golf course;
- 22 (9) a campground;
- 23 (10) a boat launching site;
- 24 (11) an arboretum;
- 25 (12) a bicycle path;
- 26 (13) a bridle path;
- 27 (14) a community center;
- 28 (15) a bowling alley;
- 29 (16) a billiard hall;
- 30 (17) a court, field, or other area designated for sports; and
- 31 (18) any other building, location, or area specifically set aside
32 for recreation.

33 SECTION 4. IC 34-6-2-129.6 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2015]: **Sec. 129.6. "Recreational user", for**
36 **purposes of IC 34-31-11, means an authorized user of a**
37 **recreational facility.**

38 SECTION 5. IC 34-31-11 IS ADDED TO THE INDIANA CODE
39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2015]:

41 **Chapter 11. Limited Liability for Operators of Recreational**
42 **Facilities**



1 **Sec. 1. (a) This chapter applies only to a recreational facility**
 2 **that is operated by an approved postsecondary educational**
 3 **institution.**

4 **(b) This chapter does not apply to the operator of an ice skating**
 5 **rink that is described in IC 34-31-6.5.**

6 **Sec. 2. An operator shall do all the following with respect to a**
 7 **recreational facility:**

8 **(1) Post the:**

9 **(A) duties of recreational users; and**

10 **(B) duties, obligations, and liabilities of the operator;**

11 **as prescribed in this chapter in at least three (3) conspicuous**
 12 **locations in or along the recreational facility.**

13 **(2) Maintain the stability and legibility of all signs, symbols,**
 14 **and posted notices required by this chapter.**

15 **(3) This subdivision applies only to a recreational facility**
 16 **located in a building. When the recreational facility is open,**
 17 **at least one (1) floor supervisor must be on duty for every one**
 18 **hundred seventy-five (175) recreational users. A floor**
 19 **supervisor:**

20 **(A) must have received appropriate training to carry out**
 21 **the floor supervisor's duties; and**

22 **(B) must use reasonable care in carrying out the floor**
 23 **supervisor's duties.**

24 **(4) Maintain the floor or surface of the recreational facility in**
 25 **proper and reasonably safe condition.**

26 **(5) If the recreational facility is located in a building or**
 27 **includes a building, maintain in good and safe condition the**
 28 **areas of the building open to recreational users.**

29 **(6) Maintain equipment in good mechanical condition.**

30 **(7) Comply with all applicable state and local fire safety**
 31 **codes, building codes, and other safety codes applicable to a**
 32 **recreational facility.**

33 **Sec. 3. A recreational user shall do all the following:**

34 **(1) Maintain reasonable control of the recreational user's**
 35 **speed and course at all times.**

36 **(2) If the recreational user throws, rolls, or otherwise propels**
 37 **an object, use due care to avoid striking other persons.**

38 **(3) Use due care while operating or using equipment.**

39 **(4) Heed all posted signs and warnings.**

40 **(5) Maintain a proper view to avoid other recreational users,**
 41 **individuals, and objects.**

42 **(6) Accept the responsibility for the following:**



- 1 **(A) Knowing the range of the recreational user's ability.**
 2 **(B) Using the recreational facility within the limits of the**
 3 **recreational user's ability.**
 4 **(7) Refrain from acting in a manner that may cause or**
 5 **contribute to the injury of the recreational user or any other**
 6 **individual.**
 7 **Sec. 4. (a) Recreational users are considered to:**
 8 **(1) have knowledge of; and**
 9 **(2) assume;**
 10 **the risks of using the recreational facility.**
 11 **(b) For purposes of this chapter, risks of using a recreational**
 12 **facility include the following:**
 13 **(1) Injuries that result from collisions or incidental contact**
 14 **with other recreational users or other individuals who are**
 15 **properly present at the recreational facility.**
 16 **(2) Injuries that result from falls caused by loss of balance.**
 17 **(3) Injuries that involve objects or artificial structures that**
 18 **are not otherwise attributable to an operator's breach of the**
 19 **operator's duties or responsibilities under section 2 of this**
 20 **chapter.**
 21 **(4) Injuries that result from the recreational user's violation**
 22 **of the recreational user's duties under section 3 of this**
 23 **chapter.**
 24 **Sec. 5. (a) Except as provided in subsection (b) and**
 25 **notwithstanding IC 34-51-2-6 concerning comparative fault, the**
 26 **assumption of risk under section 4 of this chapter is a complete**
 27 **defense to an action against an operator by a recreational user for**
 28 **injuries and property damage resulting from the assumed risks.**
 29 **(b) The following apply if an operator violates any of the**
 30 **operator's duties or responsibilities under section 2 of this chapter:**
 31 **(1) The complete defense against an action against an**
 32 **operator under subsection (a) does not apply.**
 33 **(2) The provisions of IC 34-51-2-6 apply.**

