

House File 632 - Introduced

HOUSE FILE 632
BY SEXTON and FISHER

A BILL FOR

1 An Act relating to civil liability actions against motocross
2 facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. **673B.1 Motocross facility —**
2 **immunity.**

3 1. As used in this section, unless the context otherwise
4 provides:

5 a. "*Facility operator*" means any individual, group, club,
6 partnership, corporation, or business entity, whether or not
7 operating for profit or not for profit, or any employee or
8 agent, which sponsors, organizes, rents, or provides to the
9 general public the opportunity to use a motocross vehicle by a
10 participant on a motocross facility.

11 b. "*Inherent risks of motocross activities*" means those
12 dangers, hazards, or conditions that are an integral part of
13 motocross activities, including all of the following:

14 (1) Operator error.

15 (2) Cold weather or heat-related injuries and illnesses,
16 including hypothermia, frostbite, heat exhaustion, heat stroke,
17 and dehydration.

18 (3) An act of nature which may include rock fall, inclement
19 weather, thunder and lightning, severe or varied temperature,
20 weather conditions, and winds including tornadoes.

21 (4) Attack or bite by animals.

22 (5) The aggravation of injuries or illnesses because they
23 occurred in remote places where there are no available medical
24 facilities.

25 c. "*Motocross activity*" means riding on, training in or on,
26 using, or being a passenger on a motocross vehicle as follows:

27 (1) A competition, exercise, or undertaking that involves a
28 motocross vehicle.

29 (2) Training or teaching activities regarding the operation
30 of a motocross vehicle at a motocross facility.

31 d. "*Motocross facility*" means an area created and maintained
32 for the operation of motocross vehicles on natural or man-made
33 terrain for recreation and for which a fee is charged for access.

34 e. "*Motocross vehicle*" means a motorized two-wheel vehicle
35 being operated over terrain created and maintained for

1 recreational use by operators of a motocross facility.

2 *f.* "Participant" means a person, whether amateur or
3 professional, whether or not a fee is paid, which rents, leases,
4 or uses a motocross vehicle or is a passenger on a rented,
5 leased, or used motocross vehicle while participating in a
6 motocross activity.

7 2. Except as provided in subsection 4, a motocross facility
8 shall not be liable for any injury to or the death of a
9 participant resulting from the inherent risks of motocross
10 activities and, except as provided in subsection 4, a participant
11 or a participant's representative shall not make any claim
12 against, maintain any action against, or recover from a facility
13 operator, owner, or its agents, servants, or employees for
14 injury, loss, damage, or death of the participant resulting from
15 any of the inherent risks of motocross activities which injury,
16 loss, damage, or death occurred at a motocross facility.

17 3. This section shall not apply to any employer and employee
18 relationship governed by the provisions of chapter 87.

19 4. The provisions of subsection 2 shall not prevent or limit
20 the liability of a facility operator of a motocross facility that
21 does any of the following:

22 a. Intentionally injures the participant.

23 b. Commits an act or omission that constitutes negligence for
24 the safety of a participant in a motocross activity and that
25 negligence is the proximate cause of the injury or death of a
26 participant.

27 c. Provides unsafe equipment to a participant and knew or
28 should have known that use of the furnished equipment was unsafe.

29 d. Fails to use that degree of care that an ordinarily
30 careful and prudent person would use under the same or similar
31 circumstances.

32 5. Every facility operator shall post and maintain signs
33 which contain the warning notice specified in this subsection.
34 Such signs shall be placed in a clearly visible location on
35 or near areas where the facility operator conducts motocross

1 activities. The warning notice specified in this subsection
2 shall appear on the sign in black letters on a white background
3 with each letter to be a minimum of one inch in height. The
4 signs described in this subsection shall contain the following
5 warning notice:

6 **WARNING**

7 Under Iowa law, a facility operator is not liable for an
8 injury to or the death of a participant in motocross activities
9 resulting from the inherent risks of motocross activities
10 pursuant to Iowa Code chapter 673B.

11 6. This section shall not be construed to affect, limit, or
12 modify any claim or defense existing in statute or common law or
13 to affect any claim against a motocross facility for any injury
14 to or the death of a participant that occurred at a motocross
15 facility prior to the effective date of this Act.

16 **EXPLANATION**

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to civil liability actions against motocross
20 facilities. The bill provides definitions. The bill provides
21 that a motocross facility shall not be liable for any injury to
22 or the death of a participant resulting from the inherent risks
23 of motocross activities and no participant or a participant's
24 representative shall make any claim against, maintain any action
25 against, or recover from a facility for injury, loss, damage, or
26 death of the participant resulting from any motocross activities
27 which injury, loss, damage, or death occurred at a motocross
28 facility.

29 The bill provides the following exceptions that impose
30 liability upon a motocross facility that does any of the
31 following: (1) intentionally injures the participant, (2)
32 commits an act or omission that constitutes negligence for
33 the safety of a participant in a motocross activity and that
34 negligence is the proximate cause of the injury or death of a
35 participant, (3) provides unsafe equipment to a participant and

1 knew or should have known that use of the furnished equipment
2 was unsafe, or (4) fails to use that degree of care that an
3 ordinarily careful and prudent person would use under the same
4 or similar circumstances.

5 The bill requires that every facility shall post and maintain
6 signs in a clearly visible location on or near areas where the
7 facility operator conducts motocross activities which show a
8 warning notice.

9 The bill does not limit or modify any claim or defense
10 existing under statute or common law and does not affect any
11 claim occurring prior to the effective date of the bill.

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