

AN ACT

ENTITLED, An Act to limit certain liability for hosts of fishing tournaments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That the code be amended by adding a NEW SECTION to read:

Terms used in this Act mean:

- (1) "Fishing," the riding, driving, or being a passenger in a boat or watercraft used in a fishing tournament, or any person assisting a participant or show management. The term does not include being a spectator at a fishing tournament;
- (2) "Fishing tournament," an organized competition among fishermen, usually as a series of competition events centered around or on a specific body of water, with specific rules applying to each event;
- (3) "Fishing tournament sponsor," any individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, that supports, organizes, or provides the facilities for a fishing tournament;
- (4) "Fishing professional," any person engaged for compensation in instructing a participant or renting to a participant a boat, watercraft or other equipment for the purpose of fishing in a fishing tournament;
- (5) "Inherent risks of fishing," those dangers or conditions that are an integral part of fishing, including:
 - (a) The unpredictability of the weather and environment in the area the fishing occurs;
 - (b) Certain hazards such as surface and subsurface conditions of the body of water at or on which the fishing occurs;
 - (c) Collisions with other boats, watercrafts, vehicles, ice shacks, or objects;
 - (d) If engaged in a fishing tournament, the potential of a participant to act in a

negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the boat or watercraft or not acting within the participant's ability;

- (6) "Participant," any person, whether amateur or professional, who engages in a fishing tournament, whether or not a fee is paid to participate in a fishing tournament.

Section 2. That the code be amended by adding a NEW SECTION to read:

No fishing tournament sponsor is liable for an injury to, or the death of, a participant resulting from the inherent risks of fishing.

Section 3. That the code be amended by adding a NEW SECTION to read:

Nothing in this Act prevents or limits the liability of a fishing tournament sponsor, a fishing professional, or any other person if the fishing tournament sponsor, fishing professional, or other person:

- (1) Provides the equipment, boat, or watercraft, and knew or should have known that the equipment, boat, or watercraft was faulty, and the equipment, boat, or watercraft was faulty to the extent that it causes the injury; or provides the equipment, boat, or watercraft and fails to make reasonable and prudent efforts to determine the proper operating licensure and ability of the participant to engage safely in the fishing tournament and determine the ability of the participant to safely manage the equipment, boat, or watercraft based on the participant's representations of the participant's ability;
- (2) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustains any injury because of a dangerous latent condition that was known to the fishing tournament sponsor, fishing professional, or person and for which warning signs had not been conspicuously posted;
- (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of

the participant and that causes the injury; or

- (4) Intentionally injures the participant.

Section 4. That the code be amended by adding a NEW SECTION to read:

Nothing in this Act prevents or limits the liability of any fishing tournament sponsor or fishing professional for any injury involving a participant if the recovery is made pursuant to warranty or trespass.

Section 5. That the code be amended by adding a NEW SECTION to read:

Each fishing professional and fishing tournament sponsor shall post and maintain the following sign:

WARNING: Under South Dakota law, no fishing tournament sponsor or fishing professional is liable for an injury to, or the death of, a participant resulting from the inherent risks of fishing, pursuant to this Act.

The sign shall be placed in a clearly visible location on or near boat docks, registration tables, equipment rental stations, or where a fishing professional conducts fishing activities. The warning notice shall appear on the sign in black letters, with each letter being a minimum of one inch in height. Each written contract entered into by a fishing professional for the providing of professional services, instruction, or the rental of equipment, a boat, or watercraft to a participant, whether or not the contract involves fishing activities on or off the location or site of the fishing professional's business, shall contain in clearly readable print the warning notice provided in this Act.

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I certify that the attached Act
originated in the
SENATE as Bill No. 80

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 80
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____,
20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State