

On page 1, line 1, of the House Judiciary bill, delete "establish immunity from liability for injuries to or the death of a" and insert " provide for an assumption of risk by any"

On page 1, line 2, of the House Judiciary bill, after "activity " insert "and to limit the liability of the renters of off-road vehicles "

On page 1, line 6, of the House Judiciary bill, delete "32-20-22" and insert "32-20-20"

On page 2, line 13, of the House Judiciary bill, delete "32-20-22" and insert "32-20-20"

On page 2, line 18, of the House Judiciary bill, after "activity." delete "Section 3. That a NEW SECTION be added:

"

On page 2, line 19, of the House Judiciary bill, after "added:" delete "Immunity from liability--Inherent risks of off-road vehicle activity."

On page 2, line 19, of the House Judiciary bill, after "activity." delete "

Except as provided in § 32-20-20, no off-road vehicle activity sponsor or off-road vehicle professional is liable for an injury to or the death of a participant resulting from an inherent risk of off-road vehicle activity. No participant or the representative of any participant may make a claim against, maintain an action against, or recover from an off-road vehicle activity sponsor or an off-road vehicle professional for injury, loss, damage, or the death of the participant resulting from an inherent risk of off-road vehicle activity.

For the purposes of this section, the inherent risks of off-road vehicle activity are those dangers or conditions that are an integral part of off-road vehicle activities including:

- (1) The propensity of off-road vehicle users to behave in ways that may result in injury, harm, or death to a person on or around an off-road vehicle;
- (2) The inherently dangerous nature of the terrain and environment in which off-road vehicles are ridden including the potential for rolling over, tipping over, or receiving other injuries;
- (3) Certain hazards relating to the surface and subsurface conditions;
- (4) Collisions with other off-road vehicles or objects; and
- (5) The potential of a participant to act in a negligent manner that may contribute to the injury of the participant or others."

On page 3, after line 3, of the House Judiciary bill, insert "

Section 3. That a NEW SECTION be added:

32-20-19. Assumption of risk of injury.

A participant assumes the risks inherent in engaging in off-road vehicle activity. A participant is responsible for:

- (1) Knowing the range of the participant's own ability to engage in off-road vehicle activity within the limits of the participant's ability considering the conditions;
- (2) Maintaining control of the off-road vehicle's speed and course at all times while engaging in off-road vehicle activity;
- (3) Heeding all posted warnings; and
- (4) Refraining from acting in a manner that may cause or contribute to the injury of anyone.

The provisions of this section do not affect a product's liability cause of action based upon the design or manufacture of off-road vehicles or the safety equipment used incidental to the operation of an off-road vehicle.

"

On page 3, line 12, of the House Judiciary bill, after "negligence." delete "Nothing in §§ 32-20-17 through 32-20-22 prevents or limits the liability of an off-road vehicle or an off-road vehicle professional, if the off-road activity sponsor or the off-road vehicle professional:

- (1) Knowingly provides faulty equipment or should have known the equipment was faulty, and the equipment was faulty to the extent that it caused the accident;
- (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 which was known to the off-road vehicle activity sponsor, or the off-road vehicle professional 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 act or omission caused the injury; or
- (4) Injures the participant intentionally.

Nothing in §§ 32-20-17 through 32-20-22 prevents or limits the liability of an off-road vehicle activity sponsor or an off-road vehicle professional under product liability laws."

On page 3, line 28, of the House Judiciary bill, after "laws." delete "Section 5. That a NEW SECTION be added:

"

On page 3, line 29, of the House Judiciary bill, after "added:" delete "Off-road vehicle activity-- Warning notices."

On page 3, line 29, of the House Judiciary bill, after "notices." delete "

An off-road vehicle activity sponsor or off-road vehicle professional shall post and maintain signs that contain a warning notice to participants regarding the inherent risks associated with off-road vehicle activities. The signs shall be placed in a clearly visible location on or near entrance and exit gates, clubhouses, business centers, rental facilities, or arenas where the off-road vehicle activity sponsor or off-road vehicle professional conduct off-road vehicle activities or once at the primary entrance to any riding trail maintained or operated by the off-road vehicle activity sponsor. The warning notice must

appear on the sign in black letters with each letter a minimum of three inches in height and contain the following language:

"WARNING

Under South Dakota law, an off-road vehicle activity sponsor or an off-road vehicle professional is not liable for an injury to or the death of a participant in off-road vehicle activity resulting from an inherent risk of off-road vehicle activity as provided in this Act. "

Any written contract entered into by an off-road vehicle activity sponsor or by an off-road vehicle professional to provide access for off-road vehicle activities, professional services, instruction, or rental of equipment to a participant shall contain in clear, readable print the warning notice specified in this section."

On page 4, line 14, of the House Judiciary bill, after "section." delete "Section 6. That a NEW SECTION be added:

"

On page 4, line 15, of the House Judiciary bill, after "added:" delete "Failure to meet warning requirements--Immunity from liability not applicable."

On page 4, line 16, of the House Judiciary bill, after "applicable." delete "

The immunity from liability provided in § 32-20-19 does not apply to any off-road vehicle activity sponsor or off-road vehicle professional who fails to comply with the warning sign and warning notice requirements in § 32-20-21."