

By Mrs. Sprague, a petition (accompanied by bill, Senate, No. 1702) of Jo Ann Sprague, Robert A. O'Leary, Brian P. Lees, Robert L. Hedlund and other members of the General Court for legislation to encourage the use of skateboards, inline skates and freestyle bicycles on government property. State Administration.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO SKATEBOARDING, INLINE SKATING AND FREESTYLE BICYCLING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 258 of the General Laws is hereby amended by adding
2 the following section:—

3 Section 14. The purpose of this section is to encourage govern-
4 mental owners or lessees of property to make land available to the
5 public for skateboarding, inline skating and freestyle bicycling. It
6 is recognized that governmental owners or lessees of property
7 have failed to make property available for such activities because
8 of the exposure to liability from lawsuits and the prohibitive cost
9 of insurance, if insurance can be obtained for such activities. It is
10 also recognized that risks and dangers are inherent in these activi-
11 ties, which risks and dangers should be assumed by those partici-
12 pating in such activities.

13 (a) The following terms used in this section, unless the context
14 otherwise requires, shall have the following meanings:

15 "Governmental entity", The United States, the commonwealth
16 of Massachusetts, any county or municipality, or any department,
17 agency, or other instrumentality thereof, including any school
18 board, special district, authority, or other entity exercising govern-
19 mental authority.

20 "Inherent risk", those dangers or conditions that are character-
21 istic of, intrinsic to, or an integral part of skateboarding, inline
22 skating, and freestyle bicycling.

23 (b) No governmental entity or public employee shall be liable
24 to any person who voluntarily participates in skate boarding,
25 inline skating, or freestyle bicycling for any damage or injury to
26 property or persons which arises out of a person's participation in
27 such activity, and which takes place in an area designated for such
28 activity.

29 (c) This section does not limit liability which would otherwise
30 exist for any of the following:

31 (1) The failure of the governmental entity or public employee
32 to guard against or warn of a dangerous condition of which a par-
33 ticipant does not and cannot reasonably be expected to have
34 notice.

35 (2) An act of gross negligence by the governmental entity or
36 public employee that is the proximate cause of the injury.

37 (3) The failure of a governmental entity that provides a desig-
38 nated area for skateboarding, inline skating, or freestyle bicycling
39 to obtain the written consent, in a form acceptable to the govern-
40 mental entity, from the parents or legal guardians of any child
41 under 17 years of age before authorizing such child to participate
42 in skateboarding, inline skating, or freestyle bicycling in such desig-
43 nated area, unless that child's participation is in violation of
44 posted rules governing the hours of authorized use of the desig-
45 nated area.

46 (d) This section does not grant authority or permission for a
47 person to engage in skateboarding, inline skating, or freestyle
48 bicycling on property owned or controlled by a governmental
49 entity unless such governmental entity has specifically designated
50 such area for skateboarding, inline skating, and freestyle bicy-
51 cling.

52 (e) Nothing in this subsection creates a duty of care or basis of
53 liability for death, personal injury, or damage to personal property.
54 Nothing in this section shall be deemed to be a waiver of sover-
55 eign immunity under any circumstances.

56 (f) Nothing in this section shall limit the liability of an indepen-
57 dent concessionaire, or any person or organization other than a
58 governmental entity or public employee, whether or not the
59 person or organization has a contractual relationship with a gov-
60 ernmental entity to use the public property, for injuries or dam-
61 ages suffered in any case as a result of the operation of

62 skateboards, inline skates, or freestyle bicycles on public property
63 by the concessionaire, person, or organization.

64 (g) Any person who participates in or assists in skateboarding,
65 inline skating, or freestyle bicycling assumes the known and
66 unknown inherent risks in these activities irrespective of age, and
67 is legally responsible for all damages, injury, or death to himself
68 or herself or other persons or property which result from these
69 activities. Any person who observes skateboarding, inline skating,
70 or freestyle bicycling assumes the known and unknown inherent
71 risks in these activities irrespective of age, and is legally respon-
72 sible for all damages, injury, or death to himself or herself which
73 result from these activities. No governmental entity which spon-
74 sors, allows, or permits skateboarding, inline skating, or freestyle
75 bicycling on its property is required to eliminate, alter, or control
76 the inherent risks in these activities.

77 (h) While engaged in skateboarding, inline skating, or freestyle
78 bicycling, irrespective of where such activities occur, a participant
79 is responsible for doing all of the following:

80 (1) Acting within the limits of his or her ability and the purpose
81 and design of the equipment used.

82 (2) Maintaining control of his or her person and the equipment
83 used.

84 (3) Refraining from acting in any manner which may cause or
85 contribute to death or injury of himself or herself, or other per-
86 sons.

87 Failure to comply with the requirements of this paragraph shall
88 constitute negligence.

89 (i) The fact that a governmental entity carries insurance which
90 covers any act described in this section shall not constitute a
91 waiver of the protections set forth in this section, regardless of the
92 existence or limits of such coverage.

