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HOUSE BILL NO. 553

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL* to amend the Code of Virginia by adding a section numbered 5.1-7.3, relating to duty of care and liability for damages of owners of private landing areas.

Patrons—Knight, Landes and Peace

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 5.1-7.3 as follows:**

§ 5.1-7.3. Duty of care and liability for damages of owners of private landing areas.

A. For the purposes of this section:

"Fee" means any payment or payments of money to a landowner for use of the premises or in order to engage in any activity described in subsections B and C, but does not include any action taken by another to improve the land or access to the land for the purposes set forth in subsections B and C or to remedy damage caused by such uses.

"Land" or "premises" means real property, privately owned flying fields and landing areas, whether rural or urban, waters, private ways, natural growth, trees and any building or structure that might be located on such real property, privately owned flying fields and landing areas, waters, boats, private ways, and natural growth.

"Landowner" means the legal title holder, lessee, occupant, or any other person in control of the land or premises.

B. A landowner shall owe no duty of care to keep land or premises safe for entry or use by others for hang gliding, skydiving, or operating aircraft or ultralight vehicles of any type, provided no commercial operation is being conducted. No landowner shall be required to give any warning of hazardous conditions on or uses of, structures on, or activities on such land or premises to any person entering on the land or premises for such purposes, except as provided in subsection D.

C. Any landowner who gives permission, express or implied, to another person to hang glide, skydive, or operate aircraft or ultralight vehicles of any type for the personal use of such person or for the use of an easement as set forth in subsection B does not thereby:

1. Impliedly or expressly represent that the premises are safe for such purposes;

2. Constitute the person to whom such permission has been granted an invitee to whom a duty of care is owed; or

3. Assume responsibility for or incur liability for any intentional or negligent acts of such person or any other person, except as provided in subsection D.

D. Nothing contained in this section, except as provided in subsection E, shall limit the liability of a landowner that may otherwise arise or exist by reason of his gross negligence or willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity. The provisions of this section shall not limit the liability of a landowner that may otherwise arise or exist when the landowner receives a fee for use of the premises or to engage in any activity described in subsection B or C. Nothing contained in this section shall relieve any sponsor or operator of any event or competition of the duty to exercise ordinary care in such events.

E. For purposes of this section, whenever any person enters into an agreement with, or grants an easement to, the Commonwealth or any agency thereof; any county, city, or town; or any local or regional authority created by law concerning the use of, or access over, his land by the public for any of the purposes enumerated in subsection B or C, the government, agency, county, city, town, or authority with which the agreement is made shall hold a person harmless from all liability and be responsible for providing, or for paying the cost of, all reasonable legal services required by any person entitled to the benefit of this section as the result of a claim or suit attempting to impose liability. Any action against the Commonwealth, or any agency thereof, for negligence arising out of a use of land covered by this section shall be subject to the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.). Any provision in a lease or other agreement that purports to waive the benefits of this section shall be invalid, and any action against any county, city, town, or local or regional authority shall be subject to the provisions of § 15.2-1809, where applicable.

INTRODUCED

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