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HOUSE BILL NO. 1096

Offered January 26, 1998

A BILL to amend the Code of Virginia by adding a section numbered 8.01-220.1:4, relating to civil immunity for canoe and kayak rental and guide services.

Patrons—Katzen and Guest

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-220.1:4 as follows:

§ 8.01-220.1:4. Civil immunity for paddlesports vessel and equipment providers and paddlesports guides.

A. For purposes of this section:

"Inherent risks of paddlesport activity" means those dangers or conditions which are an integral part of paddlesports activity and which may result in physical injury, temporary or permanent disability, emotional distress, pain and suffering, and/or death. These risks include, but are not limited to, hazards from: (i) the vessel in which the participant is riding and the equipment the participant is using, (ii) other vessels and equipment, (iii) the acts or omissions of other participants, (iv) surface and subsurface water conditions; (v) conditions of land, rocks, and other structures encountered by participants, whether in or out of a paddlesports vessel, (vi) weather conditions, and (vii) the activities of loading, launching, carrying, portaging, docking or otherwise controlling a vessel.

"Paddlesports guide" means any person, corporation, organization, group, club, company, or business entity, including any employee or agent thereof, who engages in guiding a participant in a paddlesport vessel, whether for a fee or not, for teaching, competing, providing a ride or tour for entertainment purposes, or for other purposes related to paddlesports activity.

"Paddlesports vessel" means any canoe, raft, or kayak propelled by the use of paddles, oars, poles, or other nonmotorized means of propulsion.

"Paddlesports vessel and equipment provider" means any person, corporation, organization, group, club, company or business entity, including any employee or agent thereof, who rents, leases, lends or provides, whether for a fee or not, any canoe, kayak, raft or other nonmotorized watercraft as well as helmets, paddles, oars, poles, personal flotation devices or other equipment related to paddlesports, for use by a participant; and

"Participant" means any person, corporation, organization, group, club, or business entity, including any employee, representative or agent thereof, who rents, leases, or uses a canoe, kayak, raft or other nonmotorized watercraft or is a passenger thereon.

B. Any paddlesports vessel and equipment provider or paddlesports guide who (i) provides each participant with a clearly readable printed form which discloses to the participant the potential dangers and inherent risks of paddlesports activity and the limitations of liability set forth in this section, and such form is signed by each participant acknowledging his assumption of risk in engaging in paddlesports activity, and (ii) provides each participant with a United States Coast Guard-approved personal flotation device, shall not be liable for any civil damages for any acts or omissions resulting from the rendering of such paddlesports equipment or guide service, unless such acts or omissions were the result of gross negligence or willful misconduct.

C. This section shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

D. Nothing in this section shall be construed to grant immunity to any claim by a participant against a paddlesports vessel and equipment provider or paddlesports guide arising from the ownership, maintenance or use of any motor vehicle.

INTRODUCED

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