

As Introduced

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H. B. No. 942

Representatives Salvo, Workman

Cosponsors: Representatives Ritter, Miller, K., Moore, Pizzulli

To enact section 2305.322 of the Revised Code to 1
establish a liability framework for 2
participants, sponsors, and spectators during 3
motorized off-road activities. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2305.322 of the Revised Code be 5
enacted to read as follows: 6

Sec. 2305.322. (A) As used in this section: 7

(1) "Motorized off-road vehicle" means a motorized vehicle 8
designed primarily for operation on unpaved surfaces, including 9
an all-purpose vehicle, a utility vehicle, an off-highway 10
motorcycle, and a snowmobile. 11

(2) "Motorized off-road activity" means any organized 12
event involving the use of a motorized off-road vehicle for 13
purposes of recreational riding, touring, instruction, racing, 14
competition, exhibition, demonstration, or practice. 15

(3) "Motorized off-road activity sponsor" means a person 16
or entity that owns, operates, leases, manages, sponsors, 17
promotes, organizes, or provides facilities, tracks, trails, 18
land, or instruction for a motorized off-road activity whether 19

for profit or nonprofit. 20

(4) "Participant" means an individual who engages in a 21
motorized off-road activity. "Participant" does not include an 22
employee of a motorized off-road activity sponsor who is acting 23
within the scope of employment. 24

(5) "Spectator" means an individual who is present at a 25
motorized off-road activity but who does not directly engage in 26
that activity. "Spectator" does not include an employee of a 27
motorized off-road activity sponsor who is acting within the 28
scope of employment. 29

(6) "Inherent risk of a motorized off-road activity" means 30
a danger or condition that is an integral part of a motorized 31
off-road activity, including any of the following: 32

(a) Surface and terrain variations; 33

(b) Jumps, obstacles, ramps, or other course features; 34

(c) Collisions between vehicles, participants, spectators, 35
or objects; 36

(d) Mechanical failure provided that it is not caused by 37
the motorized off-road activity sponsor's negligence; 38

(e) Weather conditions; 39

(f) Participant error, inexperience, lack of judgment, or 40
loss of control; 41

(g) Delayed medical response due to the location of the 42
motorized off-road activity. 43

(7) "Harm" means injury, death, or loss to a person or 44
property. 45

(B) (1) A participant in a motorized off-road activity 46

assumes any of the inherent risk of a motorized off-road activity. 47
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(2) Except as provided in division (C) of this section, a motorized off-road activity sponsor is not liable in damages in a tort or other civil action for harm that a participant allegedly sustains during a motorized off-road activity that results from an inherent risk of a motorized off-road activity. 49
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(C) The limitation of liability provided in division (B) of this section does not apply if the harm was proximately caused by any of the following: 54
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(1) An act or omission by the motorized off-road activity sponsor that constitutes gross negligence or willful or wanton misconduct; 57
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(2) The motorized off-road activity sponsor intentionally injuring the participant; 60
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(3) The motorized off-road activity sponsor knowingly providing faulty equipment or a motorized off-road vehicle that the sponsor knew or should have known was defective; 62
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(4) Reckless failure by the motorized off-road activity sponsor to construct, maintain, inspect, or mark a track, trail, course, or facility in a reasonably safe manner. 65
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(D) (1) A minor shall not participate in a motorized off-road activity unless a parent or legal guardian signs a written waiver and release of liability and indemnification agreement that acknowledges the inherent risk of a motorized off-road activity prior to the minor's participation. 68
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(2) The agreement required under division (D) (1) of this section shall do all of the following: 73
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<u>(a) Identify the inherent risks associated with a</u>	75
<u>motorized off-road activity;</u>	76
<u>(b) Affirm that participation in the motorized off-road</u>	77
<u>activity is voluntary;</u>	78
<u>(c) Acknowledge that harm to the participant may occur by</u>	79
<u>participating in the motorized off-road activity.</u>	80
<u>(3) An agreement signed by the minor participant's parent</u>	81
<u>or legal guardian creates a rebuttable presumption that the</u>	82
<u>minor participant and the parent or legal guardian were aware of</u>	83
<u>the inherent risk of a motorized off-road activity.</u>	84
<u>(E) Prior to participants engaging in a motorized off-road</u>	85
<u>activity, a motorized off-road activity sponsor shall conduct a</u>	86
<u>safety briefing appropriate to the age and experience of the</u>	87
<u>participants to ensure all participants are aware of the safety</u>	88
<u>protocols for the activity.</u>	89
<u>(F) (1) A spectator within a restricted area at a motorized</u>	90
<u>off-road activity assumes any of the inherent risk of a</u>	91
<u>motorized off-road activity.</u>	92
<u>(2) A spectator who knowingly enters a clearly marked</u>	93
<u>restricted area or activity zone is considered to have assumed</u>	94
<u>the inherent risks associated with that area or zone.</u>	95
<u>(G) The doctrine of attractive nuisance does not apply to</u>	96
<u>motorized off-road vehicles or motorized off-road activities</u>	97
<u>provided that the motorized off-road activity sponsor has taken</u>	98
<u>reasonable measures to restrict or prevent unauthorized access.</u>	99
<u>(H) This section does not limit liability under Chapter</u>	100
<u>2307. of the Revised Code.</u>	101
<u>(I) This section does not affect rights or obligations</u>	102

arising under Chapter 4123. of the Revised Code. 103

(J) This section does not create a new cause of action. 104