

1 HB25  
2 155144-1  
3 By Representative Wallace  
4 RFD: Judiciary  
5 First Read: 14-JAN-14  
6 PFD: 10/02/2013

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8 SYNOPSIS: Existing law does not specially provide for  
9 limitation of liability for certain motorized  
10 off-road vehicle activities.

11 This bill would provide for limitation of  
12 liability for certain motorized off-road vehicle  
13 activities.

14 This bill would provide for exceptions to  
15 limitation of liability for certain motorized  
16 off-road vehicle activities.

17 This bill would require the posting of signs  
18 and warnings at certain motorized off-road vehicle  
19 activities.

20 This bill would provide that the failure to  
21 post signs and warnings at certain motorized  
22 off-road vehicle activities would prevent the  
23 invocation of the privilege of immunity.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2 Relating to civil liability; to provide for  
3 limitation of liability for certain motorized off-road vehicle  
4 activities; to provide for exceptions to limitation of  
5 liability; to require the posting of signs and warnings at  
6 certain motorized off-road vehicle activities; and to provide  
7 that the failure to post signs and warnings would prevent the  
8 invocation of the privilege of immunity.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. As used in this act, the following terms  
11 shall have the following meanings, unless the context requires  
12 otherwise:

13 (1) ENGAGES IN MOTORIZED OFF-ROAD VEHICLE ACTIVITY.  
14 Rides or drives or is a passenger upon a motorized off-road  
15 vehicle, or is a person assisting a participant or management.  
16 The term does not include being a spectator at a motorized  
17 off-road vehicle activity, except in cases where the spectator  
18 places himself or herself in an unauthorized area and in  
19 immediate proximity to the motorized off-road vehicle  
20 activity.

21 (2) INHERENT RISKS OF MOTORIZED OFF-ROAD VEHICLE  
22 ACTIVITY. Those dangers or conditions which are an integral  
23 part of a motorized off-road vehicle activity, including, but  
24 not limited to, any of the following:

25 a. The propensity of a motorized off-road vehicle to  
26 roll over in ways that may result in injury, harm, or death to  
27 persons on or around the vehicle

1                   b. Certain hazards caused by the surface and  
2 subsurface conditions.

3                   c. Collisions with other motorized off-road vehicles  
4 or objects.

5                   d. The potential of a participant to act in a  
6 negligent manner that may contribute to injury to the  
7 participant or others, such as failing to maintain control  
8 over the motorized off-road vehicle or not acting within his  
9 or her ability.

10                   (3) MOTORIZED OFF-ROAD VEHICLE. A two- or  
11 four-wheeled vehicle powered by a combustible engine or  
12 electric motor and weighing eleven thousand five hundred  
13 pounds or less, whether or not the vehicle is required to be  
14 registered to operate upon the highways of this state.

15                   (4) MOTORIZED OFF-ROAD VEHICLE ACTIVITY. Any or all  
16 of the following:

17                   a. A motorized off-road vehicle show, race,  
18 competition, or performance that involves any or all motorized  
19 off-road vehicles, including, but not limited to, any dirt  
20 track, paved or unpaved race course, or jump.

21                   b. Training, teaching, or demonstrating activities  
22 involving motorized off-road vehicles.

23                   c. Driving, inspecting, or evaluating a motorized  
24 off-road vehicle belonging to another, whether or not the  
25 owner has received some monetary consideration or other thing  
26 of value for the use of the motorized off-road vehicle at a  
27 motorized off-road vehicle facility.

1           d. A ride, trip, hunt, or other motorized off-road  
2 vehicle activity of any type, however informal or impromptu,  
3 that is sponsored by a motorized off-road vehicle activity  
4 sponsor.

5           (5) MOTORIZED OFF-ROAD VEHICLE ACTIVITY SPONSOR. An  
6 individual, group, club, partnership, or corporation, whether  
7 or not the sponsor is operating for profit or not for profit,  
8 which sponsors, organizes, or provides the facilities for a  
9 motorized off-road vehicle activity, including, but not  
10 limited to, a hunting club, riding club, school or  
11 college-sponsored class, program, or activity, therapeutic  
12 riding program, or any operator, instructor, or promoter of a  
13 motorized off-road vehicle facility.

14           (6) MOTORIZED OFF-ROAD VEHICLE FACILITY. Each area  
15 used for any motorized off-road vehicle activity, including,  
16 but not limited to, a farm, ranch, riding arena, barn,  
17 pasture, riding trail, paved or unpaved race course, or other  
18 area or facility used or provided by a motorized off-road  
19 vehicle activity sponsor or where a participant engages in a  
20 motorized off-road vehicle activity.

21           (7) MOTORIZED OFF-ROAD VEHICLE PROFESSIONAL. A  
22 person engaged for compensation in any of the following:

23           a. Instructing a participant or renting to a  
24 participant a motorized off-road vehicle for the purpose of  
25 riding, driving, or being a passenger upon the motorized  
26 off-road vehicle.

1           b. Renting equipment to a participant in a  
2 motorized off-road vehicle activity.

3           (8) PARTICIPANT. A person, whether amateur or  
4 professional, who engages in a motorized off-road vehicle  
5 activity, whether or not a fee is paid to participate in the  
6 motorized off-road vehicle activity.

7           Section 2. Except as provided in Section 3, a  
8 motorized off-road vehicle activity sponsor, a motorized  
9 off-road vehicle professional, or any other person, which  
10 shall include individuals and all forms of business entities,  
11 may not be liable for an injury to or the death of a  
12 participant resulting from the inherent risks of a motorized  
13 off-road vehicle activity. Except as provided in Section 3, a  
14 participant or the representative of a participant may not  
15 make any claim against, maintain an action against, or recover  
16 from a motorized off-road vehicle activity sponsor, a  
17 motorized off-road vehicle professional, or any other person  
18 for injury, loss, damage, or death of the participant  
19 resulting from any of the inherent risks of motorized off-road  
20 vehicle activities.

21           Section 3. Nothing in Section 2 shall prevent or  
22 limit the liability of a motorized off-road vehicle activity  
23 sponsor, a motorized off-road vehicle professional, or any  
24 other person if the motorized off-road vehicle activity  
25 sponsor, motorized off-road vehicle professional, or other  
26 person who does any of the following:

1           (1) Provided the equipment and knew or should have  
2 known that the equipment was faulty, and the equipment was  
3 faulty to the extent that it caused the injury.

4           (2) Failed to make reasonable and prudent efforts to  
5 determine the ability of the participant to engage safely in  
6 the motorized off-road vehicle activity.

7           (3) Owned, leased, rented, or otherwise was in  
8 lawful possession and control of the land or facility upon  
9 which the participant sustained injuries because of a  
10 dangerous latent condition which was known or should have been  
11 known to the motorized off-road vehicle activity sponsor,  
12 motorized off-road vehicle professional, or other person and  
13 for which warning signs were not conspicuously posted.

14           (4) Committed an act or omission that constitutes  
15 willful or wanton disregard for the safety of the participant,  
16 and that act or omission caused the injury.

17           (5) Intentionally injured the participant.

18           Section 4. Nothing in Section 3 shall be construed  
19 to prevent or limit the liability of a motorized off-road  
20 vehicle activity sponsor or a motorized off-road vehicle  
21 professional or other person under the liability provisions as  
22 set forth in Article 28, Chapter 5, Title 6 of the Code of  
23 Alabama 1975 (commencing at Section 6-5-500).

24           Section 5. Each motorized off-road vehicle  
25 professional and motorized off-road vehicle activity sponsor  
26 shall post and maintain a conspicuously located sign or  
27 provide a written warning which contains the warning notice

1 specified in Section 6. The sign shall be placed in a clearly  
2 visible location on or near any registration area, staging  
3 area, or arena where the motorized off-road vehicle  
4 professional or the motorized off-road vehicle activity  
5 sponsor conducts a motorized off-road vehicle activity, or a  
6 written warning shall be given to each participant prior to  
7 the commencement of the activities. The warning notice  
8 specified in Section 6 shall appear on the sign in black  
9 letters, with each letter to be a minimum of one inch in  
10 height or shall appear in the written warning in boldface  
11 capital letters no smaller than twelve-point type. Each  
12 written contract entered into by a motorized off-road vehicle  
13 professional or by a motorized off-road vehicle activity  
14 sponsor for the provision of professional services,  
15 instruction, or the rental of equipment or a motorized  
16 off-road vehicle to a participant, whether or not the contract  
17 involves motorized off-road vehicle activities on or off the  
18 location or site of the motorized off-road vehicle  
19 professional's or the motorized off-road vehicle activity  
20 sponsor's business, shall contain in clearly readable print  
21 the warning notice specified in Section 6.

22 Section 6. The signs, written warnings, and  
23 contracts described in Section 5 shall contain the following  
24 warning notice: "WARNING Under Alabama law, a motorized  
25 off-road vehicle activity sponsor or motorized off-road  
26 vehicle professional is not liable for an injury to or the  
27 death of a participant in a motorized off-road vehicle



1 activity resulting from the inherent risks of the motorized  
2 off-road vehicle activity."

3 Section 7. Failure to comply with the requirements  
4 concerning warning notices provided in this act shall prevent  
5 a motorized off-road vehicle activity sponsor or motorized  
6 off-road vehicle professional from invoking the privilege of  
7 immunity provided by this act.

8 Section 8. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.