

Stricken language would be deleted from and underlined language would be added to present law.
Act 573 of the Regular Session

State of Arkansas *As Engrossed: H3/4/19 H3/6/19 S3/13/19*
92nd General Assembly **A Bill**
Regular Session, 2019

HOUSE BILL 1620

By: Representative Dotson

By: Senator B. Davis

For An Act To Be Entitled

*AN ACT TO CREATE THE ARKANSAS CYCLING ACTIVITIES ACT;
AND FOR OTHER PURPOSES.*

Subtitle

*TO CREATE THE ARKANSAS CYCLING ACTIVITIES
ACT.*

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

SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an additional subchapter to read as follows:

Subchapter 10

– Arkansas Cycling Activities Act

16-120-1001. Title.

This subchapter shall be known and may be cited as "Arkansas Cycling Activities Act".

16-120-1002. Definitions.

As used in this section:

(1) "Bicycle" means a:

(A) Two-wheeled vehicle with a rear drive wheel that is solely human-powered; or

(B) Two-wheeled or three-wheeled vehicle with:

(i) Fully operable pedals and an electric motor of less than seven hundred fifty watts (750 W); and



(ii) A maximum speed of less than twenty miles per hour (20 m.p.h.) on a paved level surface when powered solely by an electric motor and ridden by an operator who weighs one hundred seventy pounds (170 lbs.);

(2) "Cycling activity" means riding a bicycle on a road, trail, path, or other surface for:

(A) Competition, exercise, or other undertaking that involves a bicycle;

(B) A training or teaching activity; or

(C) A ride, trip, or other activity that is sponsored by a bicycle outfitter;

(3) "Inherent risk of a cycling activity" means the dangers or conditions that are an integral part of cycling activities on the roads, trails, paths, or other surfaces of the state, including without limitation:

(A) Injury or death caused by:

(i) A change or variation in the surface which may cause a participant to lose control, lose his or her balance, or crash the bicycle;

(ii) A collision with natural or man-made object on or adjacent to the cycling surface, including without limitation a;

(a) Tree;

(b) Rock; or

(c) Tree stump; or

(iii) A collision with a pedestrian, a vehicle, or another cyclist which may result in injury or death;

(B) Weather-related illnesses or conditions, including without limitation:

(i) Hypothermia;

(ii) Frostbite;

(iii) Heat exhaustion;

(iv) Heat stroke; or

(v) Dehydration;

(C) An act of nature, including without limitation:

(i) Falling rocks;

(ii) Inclement weather;

(iii) Thunder and lightning;

(iv) Severe or varied temperatures;

(v) Winds; or

(vi) Tornadoes;

(D) Operator error including equipment failure due to operator error;

(E) Attack or injury by an animal; or

(F) The aggravation of an injury, illness, or condition because the injury, illness, or condition occurred in a remote place where medical facilities are not available;

(4) "bicycle outfitter" means an individual, group, club, partnership, corporation, or business entity, whether or not operating for profit, or an employee or organized agent, that sponsors, organizes, rents, or provides to a participant the use of a bicycle; and

(5) "Participant" means a person who rents, leases, or uses a bicycle provided by a bicycle outfitter whether or not a fee is paid.

16-120-1003. Liability of a bicycle outfitter.

Except as provided in § 16-120-1004(b):

(1)(A) A participant assumes the inherent risk of a cycling activity by engaging in the cycling activity.

(B) A participant or a participant's representative shall not make a claim against, maintain an action against, or recover from a bicycle outfitter for the loss or damage or injury to or the death of the participant resulting from the inherent risk of a cycling activity; and

(2) A bicycle outfitter is not liable for an injury to or the death of a participant resulting from the inherent risk of a cycling activity.

16-120-1004. Exclusions.

This subchapter does not:

(1) Apply to a relationship between an employer and employee under the Workers' Compensation Law, § 11-9-101 et seq.; and

(2) Prevent or limit the liability of a bicycle outfitter or the bicycle outfitter's agent that:

(A) Intentionally injures a participant;

(B) Commits an act or omission of gross negligence

concerning the safety of a participant that proximately causes injury to or the death of the participant;

(C) Provides an unsafe bicycle to a participant and knew or should have known that the bicycle was unsafe to the extent that it could cause an injury;

(D) Fails to provide a participant with a bicycle that meets the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission under 16 C.F.R. Part 1512 as it existed on January 1, 2017;

(E) Fails to use the degree of care that an ordinarily careful and prudent person would use under the same or similar circumstances; and

(F) Commits other acts, errors, or omissions that constitute willful or wanton misconduct, gross negligence, or criminal conduct that proximately causes injury, damage, or death.

16-120-1005. Supplemental to other law

The limitation of liability provided by this section is in addition to any other limitation of liability provided by law.

16-120-1006. Signage.

(f) A bicycle outfitter shall post and maintain signage in a clearly visible location at or near where the bicycle outfitter conducts cycling activities and in black letters at least one inch (1") high containing the following warning:

"WARNING -- Under Arkansas law, § 16-120-1003, the liability of a bicycle outfitter is limited. You are assuming the risk of participating in a cycling activity."

/s/Dotson

APPROVED: 3/27/19