

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 81

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1
2 RELATING TO LIMITING THE LIABILITY OF RECREATION CLUBS AND THEIR MEMBERS;
3 AMENDING CHAPTER 16, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
4 TION 36-1605, IDAHO CODE, TO PROVIDE FOR A LIMITATION OF LIABILITY FOR
5 RECREATION CLUBS AND THEIR MEMBERS AND TO PROVIDE FOR CERTAIN EXCEP-
6 TIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 16, Title 36, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 36-1605, Idaho Code, and to read as follows:

11 36-1605. LIMITATION OF LIABILITY OF RECREATION CLUBS AND THEIR MEM-
12 BERS. (1) Statement of Purpose. The purpose of this section is to encour-
13 age the formation of recreation clubs and participation in recreation activ-
14 ities organized by recreation clubs by limiting the liability of members of
15 recreation clubs.

16 (2) Definitions. As used in this section:

17 (a) "Club member" includes any member, officer, director, or volunteer
18 of a recreation club that receives no wage for personal services ren-
19 dered to the recreation club.

20 (b) "Participant" includes any person, whether novice, amateur, or
21 professional, who engages in a recreation activity coordinated, facil-
22 itated, organized, promoted, or supported by a recreation club, whether
23 or not the participant is a member of the recreation club.

24 (c) "Recreation activity" or "recreation activities" means the pursuit
25 of personal enjoyment or pleasure on or in land, air, or water when done
26 without charge or fee payable to the recreation club or a club member,
27 including but not limited to any of the following activities or any
28 combination thereof: hunting, fishing, shooting, trapping, swimming,
29 boating, rafting, tubing, camping, picnicking, hiking, pleasure driv-
30 ing, the flying of aircraft, bicycling, running, playing on playground
31 equipment, nature study or observation, water skiing, animal rid-
32 ing, motorcycling, snowmobiling, operating recreational vehicles and
33 off-highway vehicles, winter sports, viewing or enjoying historical,
34 archaeological, scenic, geological or scientific sites, and traveling
35 across or being upon the land, air, or water incidental to or ancil-
36 lary to any of the recreational purposes described in this subsection.
37 Membership dues in, and donations to, a recreation club shall not be
38 considered a charge or fee for a recreation activity.

39 (d) "Recreation club" means an unincorporated association formed pur-
40 suant to chapter 27, title 30, Idaho Code, or a nonprofit corporation
41 organized pursuant to chapter 30, title 30, Idaho Code, that has among

1 its purposes the coordination, facilitation, organization, participa-
2 tion, promotion, or support of recreation activities.

3 (3) Limitation of Liability of Recreation Clubs. Except as provided in
4 subsection (4), a recreation club and a club member shall not be liable for
5 any injury to or the death of a participant engaged in a recreation activity,
6 and no participant nor participant's representative or survivor may main-
7 tain an action against or recover from a recreation club or a club member for
8 any injury to or the death of a participant engaged in a recreation activity.

9 (4) Exceptions. The limitation of liability set forth in subsection
10 (3) shall not apply in the following instances:

11 (a) With respect to a recreation club where the recreation club pro-
12 vides equipment to the participant and the provided equipment is the di-
13 rect and proximate cause of the injury to or death of the participant;

14 (b) With respect to a club member where the club member provides equip-
15 ment to the participant and the provided equipment is the direct and
16 proximate cause of the injury to or death of the participant;

17 (c) With respect to a club member where the club member commits an act or
18 omission that constitutes gross negligence or willful and wanton disre-
19 gard for the safety of the participant and that act or omission is the
20 direct and proximate cause of the injury or death;

21 (d) With respect to a club member where the club member intentionally
22 injures the participant;

23 (e) With respect to a club member where the club member fails to ex-
24 ercise ordinary care in the club member's own participation in the
25 recreation activity and such failure is the direct and proximate cause
26 of the injury to or the death of the participant. The mere fact that
27 the club member coordinated, facilitated, organized, participated in,
28 promoted, or supported the recreation activity shall not, in itself,
29 be sufficient to constitute a failure to exercise ordinary care where
30 there is no other basis for liability;

31 (f) Under the liability provisions as set forth in the products liabil-
32 ity laws; or

33 (g) Under the liability provisions set forth in chapter 9, title 6;
34 chapter 11, title 6; chapter 12, title 6; chapter 18, title 6; chapter
35 27, title 6; chapter 29, title 6; or chapter 33, title 6, Idaho Code.

36 (5) Limitation of Duties. A recreation club and a club member has no
37 duty to eliminate, alter, control, or lessen the risks inherent with recre-
38 ation activities. A recreation club and a club member owe no duty of care to
39 make any recreation activity safe for a participant or to give any warning of
40 a danger related to the recreation activity. A participant who takes part in
41 a recreation activity assumes all risks inherent in that activity.

42 (6) Waiver of Negligence Claims. Any participant may, by express writ-
43 ten consent, prospectively waive negligence claims against a recreation
44 club and a club member. It is the policy of this state that such written
45 liability waivers are enforceable to the same degree as similar waivers for
46 other activities.

47 SECTION 2. An emergency existing therefor, which emergency is hereby
48 declared to exist, this act shall be in full force and effect on and after
49 July 1, 2025.