

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1045

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AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 34-6-2-91, AS AMENDED BY P.L.77-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 91. (a) "Operator", for purposes of IC 34-30-3, means a person who is an owner, a lessee, a tenant, or an occupant of land or premises that are used in the production of agricultural products.

(b) "Operator", for purposes of IC 34-31-6, means a person or an entity, other than a governmental entity or an employee of a governmental entity, that owns, manages, controls, directs, or has operational responsibility for a roller skating rink.

(c) "Operator", for purposes of IC 34-31-6.5, means an approved postsecondary educational institution (as defined in IC 21-7-13-6) that owns, manages, controls, directs, or has operational responsibility for an ice skating rink.

**(d) "Operator", for purposes of IC 34-31-11.4, means an:**

- (1) elementary school (as defined under IC 20-18-2-4);**
- (2) approved secondary school (as defined under IC 21-12-1-5); or**
- (3) approved postsecondary school (as defined under IC 21-7-13-6);**

**that owns, manages, controls, directs, or has operational**

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**responsibility for a recreational facility.**

SECTION 2. IC 34-6-2-129.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.4. "Recreation", for purposes of IC 34-31-11.4, includes physical exercise, leisure, or sports.**

SECTION 3. IC 34-6-2-129.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.5. "Recreational facility", for purposes of IC 34-31-11.4, means a building, location, or area primarily designed and used for purposes of recreation. The term includes:**

- (1) a gymnasium;**
- (2) a park;**
- (3) a playground;**
- (4) a swimming pool;**
- (5) a fieldhouse;**
- (6) a beach;**
- (7) a stadium;**
- (8) a golf course;**
- (9) a campground;**
- (10) a boat launching site;**
- (11) an arboretum;**
- (12) a bicycle path;**
- (13) a bridle path;**
- (14) a community center;**
- (15) a bowling alley;**
- (16) a billiard hall;**
- (17) a court, field, or other area designated for sports; and**
- (18) any other building, location, or area specifically set aside for recreation.**

SECTION 4. IC 34-6-2-129.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.6. "Recreational user", for purposes of IC 34-31-11.4, means an authorized user of a recreational facility who is using the facility for the recreational purpose for which it was primarily designed. However, the term does not include a person participating in or attending an intercollegiate or interscholastic event.**

SECTION 5. IC 34-31-11.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 11.4. Limited Liability for Operators of Recreational**



### **Facilities**

**Sec. 1. (a) This chapter applies only to a recreational facility that is operated by an:**

- (1) elementary school (as defined under IC 20-18-2-4);**
- (2) approved secondary school (as defined under IC 21-12-1-5); or**
- (3) approved postsecondary school (as defined under IC 21-7-13-6).**

**(b) This chapter does not apply to the operator of:**

- (1) an ice skating rink that is described in IC 34-31-6.5; or**
- (2) a recreational facility with respect to an activity:**
  - (A) for which the recreational facility is not primarily designed (even if the recreational facility is designed to allow this activity); or**
  - (B) that is not recreation.**

**Sec. 2. To qualify for limited liability under this chapter, an operator shall do all the following with respect to a recreational facility:**

- (1) Post the:**
  - (A) duties of recreational users; and**
  - (B) duties, obligations, and liabilities of the operator;****as prescribed in this chapter in at least three (3) conspicuous locations in or along the recreational facility.**
- (2) Maintain the stability and legibility of all signs, symbols, and posted notices required by this chapter.**
- (3) This subdivision applies only to a recreational facility located in a building. When the recreational facility is open, at least one (1) floor supervisor must be on duty. A floor supervisor:**
  - (A) must have received appropriate training to carry out the floor supervisor's duties; and**
  - (B) must use reasonable care in carrying out the floor supervisor's duties.**
- (4) Maintain the floor or surface of the recreational facility in proper and reasonably safe condition.**
- (5) If the recreational facility is located in a building or includes a building, maintain in good and safe condition the areas of the building open to recreational users.**
- (6) Maintain equipment in good mechanical condition.**
- (7) Comply with all applicable state and local fire safety codes, building codes, and other safety codes applicable to a recreational facility.**



**Sec. 3. A recreational user shall do all the following:**

- (1) Maintain reasonable control of the recreational user's speed and course at all times.
- (2) Use due care while operating or using equipment.
- (3) Heed all posted signs and warnings.
- (4) Maintain a proper view to avoid other recreational users, individuals, and objects.
- (5) Accept the responsibility for the following:
  - (A) Knowing the range of the recreational user's ability.
  - (B) Using the recreational facility within the limits of the recreational user's ability.
- (6) Refrain from acting in a manner that may cause or contribute to the injury of the recreational user or any other individual.

**Sec. 4. (a) Recreational users are considered to:**

- (1) have knowledge of; and
- (2) assume;

the risks of using the recreational facility.

(b) For purposes of this chapter, risks of using a recreational facility include the following:

- (1) Injuries that result from collisions or incidental contact with other recreational users or other individuals who are properly present at the recreational facility.
- (2) Injuries that result from falls caused by loss of balance.
- (3) Injuries that involve objects or artificial structures that are not otherwise attributable to an operator's breach of the operator's duties or responsibilities under section 2 of this chapter.
- (4) Injuries that result from the recreational user's violation of the recreational user's duties under section 3 of this chapter.

**Sec. 5. (a) Except as provided in subsection (b) and notwithstanding IC 34-51-2-6 concerning comparative fault, the assumption of risk under section 4 of this chapter is a complete defense to an action against an operator by a recreational user for injuries and property damage resulting from the assumed risks.**

(b) The following apply if an operator violates any of the operator's duties or responsibilities under section 2 of this chapter:

- (1) The complete defense against an action against an operator under subsection (a) does not apply.
- (2) The provisions of IC 34-51-2-6 apply, unless IC 34-13-3 applies to the operator.



**(c) If IC 34-13-3 applies to an operator, the liability of the operator under section 2 of this chapter is subject to IC 34-13-3 and IC 34-51-2-2.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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