

# SENATE BILL NO. 1349

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

4642S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to liability of motorized off-road vehicle activities.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.326, to read as follows:

**537.326. 1. As used in this section, the following terms mean:**

(1) "Engages in a motorized off-road vehicle activity", rides or drives, or is a passenger upon a motorized off-road vehicle, or is a person assisting a participant or management with a motorized off-road vehicle activity. The term "engages in a motorized off-road vehicle activity" shall not include being a spectator at a motorized off-road vehicle activity, except in cases where the spectator places himself or herself in an unauthorized area and in immediate proximity to the motorized off-road vehicle activity;

(2) "Inherent risks of motorized off-road vehicle activities", those dangers or conditions which are an integral part of a motorized off-road vehicle activity, including, but not limited to:

17           (a) The propensity of a motorized off-road vehicle to  
18 roll over in ways that may result in injury, harm, or death  
19 to persons on or around it;

20           (b) Certain hazards such as surface and subsurface  
21 conditions;

22           (c) Collisions with other motorized off-road vehicles  
23 or objects; and

24           (d) The potential of a participant to act in a  
25 negligent manner that may contribute to injury to the  
26 participant or others, such as failing to maintain control  
27 over the motorized off-road vehicle or not acting within his  
28 or her ability;

29           (3) "Motorized off-road vehicle", any vehicle powered  
30 by a combustible engine or electric motor and weighing  
31 eleven thousand five hundred pounds or less, whether or not  
32 such vehicle is required to be registered to operate upon  
33 the roads or highways of this state;

34           (4) "Motorized off-road vehicle activity", includes:

35           (a) A motorized off-road vehicle show, race,  
36 competition, or performance that involves any or all  
37 motorized off-road vehicles, including, but not limited to,  
38 any dirt track, paved or unpaved race course, or jump;

39           (b) Training, teaching, or demonstrating activities  
40 involving motorized off-road vehicles;

41           (c) Driving, inspecting, or evaluating a motorized off-  
42 road vehicle belonging to another, whether or not the owner  
43 has received some monetary consideration or other thing of  
44 value for the use of the motorized off-road vehicle at a  
45 motorized off-road vehicle facility; and

46           (d) A ride, trip, hunt, or other motorized off-road  
47 vehicle activity of any type, whether or not informal or

48 impromptu, that is sponsored by a motorized off-road vehicle  
49 activity sponsor;

50 (5) "Motorized off-road vehicle activity sponsor", an  
51 individual, group, club, partnership, or corporation,  
52 whether or not operating for profit or nonprofit, legal  
53 entity, or any employee thereof, which sponsors, organizes,  
54 or provides the facilities for a motorized off-road vehicle  
55 activity, including, but not limited to, hunting clubs,  
56 riding clubs, school or college sponsored classes, programs,  
57 or activities, therapeutic riding programs, or any operator,  
58 instructor, or promoter of a motorized off-road vehicle  
59 facility;

60 (6) "Motorized off-road vehicle facility", any area  
61 used for any motorized off-road vehicle activity, including,  
62 but not limited to, a farm, ranch, riding area, barn,  
63 pasture, riding trail, paved or unpaved race course, or  
64 other area or facility used or provided by a motorized off-  
65 road vehicle activity sponsor or where a participant engages  
66 in a motorized off-road vehicle activity;

67 (7) "Motorized off-road vehicle professional", a  
68 person engaged for compensation in:

69 (a) Instructing a participant or renting to a  
70 participant a motorized off-road vehicle for the purpose of  
71 riding, driving, or being a passenger upon the motorized off-  
72 road vehicle; or

73 (b) Renting equipment to a participant in a motorized  
74 off-road vehicle activity;

75 (8) "Participant", any person, whether an amateur or  
76 professional, who engages in a motorized off-road vehicle  
77 activity, regardless if a fee is paid to participate in the  
78 motorized off-road vehicle activity.

79           2. Except as provided in subsection 3, 4, or 6 of this  
80 section, a motorized off-road vehicle activity sponsor, a  
81 motorized off-road vehicle professional, or any other  
82 person, including individuals and all forms of business  
83 entities, shall not be liable for an injury to or the death  
84 of a participant resulting from the inherent risks of a  
85 motorized off-road vehicle activity and no participant or  
86 participant's representative shall make any claim against,  
87 maintain an action against, or recover from, a motorized off-  
88 road vehicle activity sponsor, a motorized off-road vehicle  
89 professional, or any other person for injury, loss, damage,  
90 or death of the participant resulting from any of the  
91 inherent risks of motorized off-road vehicle activities.

92           3. Nothing in subsection 2 of this section shall  
93 prevent or limit the liability of a motorized off-road  
94 vehicle activity sponsor, a motorized off-road vehicle  
95 professional, or any other person if the motorized off-road  
96 vehicle activity sponsor, motorized off-road vehicle  
97 professional, or other person either:

98           (1) Provided the equipment, and knew or should have  
99 known that the equipment was faulty, and such equipment was  
100 faulty to the extent that it did cause the injury;

101           (2) Failed to make reasonable and prudent efforts to  
102 determine the ability of the participant to engage safely in  
103 the motorized off-road vehicle activity;

104           (3) Owned, leased, rented, or otherwise was in lawful  
105 possession and control of the land or facility upon which  
106 the participant sustained injuries because of a dangerous  
107 latent condition which was known or should have been known  
108 to the motorized off-road vehicle activity sponsor,  
109 motorized off-road vehicle professional, or other person and  
110 for which warning signs have not been conspicuously posted;

111           (4) Committed an act or omission that constitutes  
112 willful or wanton disregard for the safety of the  
113 participant, and that act or omission caused the injury; or

114           (5) Intentionally injured the participant.

115           4. Nothing in subsection 2 of this section shall  
116 prevent or limit the liability of a motorized off-road  
117 vehicle activity sponsor or a motorized off-road vehicle  
118 professional or other person for products liability claims,  
119 as such term is defined in section 537.760 and as provided  
120 by sections 537.760 to 537.765.

121           5. Every motorized off-road vehicle professional and  
122 every motorized off-road vehicle activity sponsor shall post  
123 and maintain a conspicuously located sign or provide a  
124 written warning which contains the warning notice specified  
125 in this subsection. The sign shall be placed in a clearly  
126 visible location on or near any registration area, staging  
127 area, or arena where the motorized off-road vehicle  
128 professional or the motorized off-road vehicle activity  
129 sponsor conducts a motorized off-road vehicle activity, or  
130 the written warning shall be given to each participant prior  
131 to the commencement of the activities. The warning notice  
132 specified in this subsection shall appear on the sign in  
133 black letters, with each letter to be a minimum of one inch  
134 in height, or shall appear in the written warning in  
135 boldface capital letters, with each letter no smaller than  
136 twelve-point font. Every written contract entered into by a  
137 motorized off-road vehicle professional or by a motorized  
138 off-road vehicle activity sponsor for the provision of  
139 professional services, instruction, or the rental of  
140 equipment or a motorized off-road vehicle to a participant,  
141 whether or not the contract involves motorized off-road  
142 vehicle activities on or off the location or site of the

143 motorized off-road vehicle professional's or the motorized  
144 off-road vehicle activity sponsor's business, shall contain  
145 in clearly readable print the warning notice specified in  
146 this subsection. The signs, written warnings, and contracts  
147 described in this subsection shall contain the following  
148 warning notice:

149 "WARNING

150 Under Missouri law, a motorized off-road vehicle  
151 activity sponsor or motorized off-road vehicle  
152 professional is not liable for an injury to or the  
153 death of a participant in a motorized off-road  
154 vehicle activity resulting from the inherent risks  
155 of the motorized off-road vehicle activity  
156 pursuant to the Revised Statutes of Missouri."

157 6. Failure to comply with the requirements concerning  
158 warning notices provided in subsection 5 of this section  
159 shall prevent a motorized off-road vehicle activity sponsor  
160 or motorized off-road vehicle professional from invoking the  
161 privilege of immunity provided by this section.

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