

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

783X0140

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 80** - 02/04/2016

Introduced by: Senators Brown, Cammack, and White and Representatives Harrison, Cronin, Deutsch, Duvall, Feickert, Otten (Herman), Schoenbeck, Solum, Willadsen, and Wink

1 FOR AN ACT ENTITLED, An Act to limit certain liability for hosts of fishing tournaments.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That the code be amended by adding a NEW SECTION to read:

4 Terms used in this Act mean:

5 (1) "Fishing," the riding, driving, or being a passenger in a boat or watercraft used in a
6 fishing tournament, or any person assisting a participant or show management. The
7 term does not include being a spectator at a fishing tournament;

8 (2) "Fishing tournament," an organized competition among fishermen, usually as a series
9 of competition events centered around or on a specific body of water, with specific
10 rules applying to each event;

11 (3) "Fishing tournament sponsor," any individual, group, club, partnership, or
12 corporation, whether or not the sponsor is operating for profit or nonprofit, that
13 supports, organizes, or provides the facilities for a fishing tournament;

14 (4) "Fishing professional," any person engaged for compensation in instructing a



1 participant or renting to a participant a boat, watercraft or other equipment for the
2 purpose of fishing in a fishing tournament;

3 (5) "Inherent risks of fishing," those dangers or conditions that are an integral part of
4 fishing, including:

5 (a) The unpredictability of the weather and environment in the area the fishing
6 occurs;

7 (b) Certain hazards such as surface and subsurface conditions of the body of water
8 at or on which the fishing occurs;

9 (c) Collisions with other boats, watercrafts, vehicles, ice shacks, or objects;

10 (d) If engaged in a fishing tournament, the potential of a participant to act in a
11 negligent manner that may contribute to injury to the participant or others,
12 such as failing to maintain control over the boat or watercraft or not acting
13 within the participant's ability;

14 (6) "Participant," any person, whether amateur or professional, who engages in a fishing
15 tournament, whether or not a fee is paid to participate in a fishing tournament.

16 Section 2. That the code be amended by adding a NEW SECTION to read:

17 No fishing tournament sponsor is liable for an injury to, or the death of, a participant
18 resulting from the inherent risks of fishing.

19 Section 3. That the code be amended by adding a NEW SECTION to read:

20 Nothing in this Act prevents or limits the liability of a fishing tournament sponsor, a fishing
21 professional, or any other person if the fishing tournament sponsor, fishing professional, or other
22 person:

23 (1) Provides the equipment, boat, or watercraft, and knew or should have known that the
24 equipment, boat, or watercraft was faulty, and the equipment, boat, or watercraft was

1 faulty to the extent that it causes the injury; or provides the equipment, boat, or
2 watercraft and fails to make reasonable and prudent efforts to determine the proper
3 operating licensure and ability of the participant to engage safely in the fishing
4 tournament and determine the ability of the participant to safely manage the
5 equipment, boat, or watercraft based on the participant's representations of the
6 participant's ability;

7 (2) Owns, leases, rents, or otherwise is in lawful possession and control of the land or
8 facilities upon which the participant sustains any injury because of a dangerous latent
9 condition that was known to the fishing tournament sponsor, fishing professional, or
10 person and for which warning signs had not been conspicuously posted;

11 (3) Commits an act or omission that constitutes willful or wanton disregard for the safety
12 of the participant and that causes the injury; or

13 (4) Intentionally injures the participant.

14 Section 4. That the code be amended by adding a NEW SECTION to read:

15 Nothing in this Act prevents or limits the liability of any fishing tournament sponsor or
16 fishing professional for any injury involving a participant if the recovery is made pursuant to
17 warranty or trespass.

18 Section 5. That the code be amended by adding a NEW SECTION to read:

19 Each fishing professional and fishing tournament sponsor shall post and maintain the
20 following sign:

21 **WARNING:** Under South Dakota law, no fishing tournament sponsor or fishing professional
22 is liable for an injury to, or the death of, a participant resulting from the inherent risks of fishing,
23 pursuant to this Act.

24 The sign shall be placed in a clearly visible location on or near boat docks, registration

1 tables, equipment rental stations, or where a fishing professional conducts fishing activities. The
2 warning notice shall appear on the sign in black letters, with each letter being a minimum of one
3 inch in height. Each written contract entered into by a fishing professional for the providing of
4 professional services, instruction, or the rental of equipment, a boat, or watercraft to a
5 participant, whether or not the contract involves fishing activities on or off the location or site
6 of the fishing professional's business, shall contain in clearly readable print the warning notice
7 provided in this Act.