

2A:42A-2

LEGISLATIVE HISTORY CHECKLIST
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(Landowners Liability Act)

NJSA: 2A:42A-2

LAWS OF: 1991 CHAPTER: 496

BILL NO: A4678

SPONSOR(S): Ford and Doyle

DATE INTRODUCED: April 8, 1991

COMMITTEE: ASSEMBLY: Judiciary
SENATE: —

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: January 13, 1992
SENATE: January 13, 1992

DATE OF APPROVAL: January 18, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
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FISCAL NOTE: No

VETO MESSAGE: No

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FOLLOWING WERE PRINTED:

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KBG/pp

P.L.1991, CHAPTER 496, approved January 18, 1992

1991 Assembly No. 4678

1 AN ACT concerning certain recreational vehicles and property
2 owners' liability, amending and supplementing P.L.1968, c.73
3 and P.L.1985, c.431, and amending P.L.1973, c.307.
4

5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. Section 1 of P.L.1968, c.73 (C.2A:42A-2) is amended to read
8 as follows:

9 1. As used in this act "sport and recreational activities" means
10 and includes: hunting, fishing, trapping, horseback riding,
11 training of dogs, hiking, camping, picnicking, swimming, skating,
12 skiing, sledding, tobogganing, operating or riding snowmobiles,
13 all-terrain vehicles or dirt bikes, and any other outdoor sport,
14 game and recreational activity including practice and instruction
15 in any thereof. For purposes of P.L.1968, c.73 (C.2A:42A-1 et
16 seq.) "all-terrain vehicle" means a motor vehicle, designed to
17 travel over any terrain, of a type possessing between three and
18 six rubber tires and powered by a gasoline engine not exceeding
19 600 cubic centimeters, but shall not include golf carts;
20 "snowmobile" means any motor vehicle, designed primarily to
21 travel over ice or snow, of a type which uses sled type runners,
22 skis, an endless belt tread, cleats or any combination of these or
23 other similar means of contact with the surface upon which it is
24 operated, but does not include any farm tractor, highway or other
25 construction equipment, or any military vehicle; "dirt bike"
26 means a motor powered vehicle possessing two or more tires,
27 designed to travel over any terrain and capable of travelling off
28 of paved roads, whether or not such vehicle is subject to
29 registration with the Division of Motor Vehicles.

30 (cf: P.L.1968, c.73, s.1)

31 2. Section 2 of P.L.1968, c.73 (C.2A:42A-3) is amended to read
32 as follows:

33 2. Except as provided in section 3 of this act:

34 a. An owner, lessee or occupant of premises, whether or not
35 posted as provided in section 23:7-7 of the Revised Statutes, and
36 whether or not improved or maintained in a natural condition, or
37 used as part of a commercial enterprise, owes no duty to keep the
38 premises safe for entry or use by others for sport and

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 recreational activities, or to give warning of any hazardous
2 condition of the land or in connection with the use of any
3 structure or by reason of any activity on such premises to persons
4 entering for such purposes;

5 b. An owner, lessee or occupant of premises who gives
6 permission to another to enter upon such premises for a sport or
7 recreational activity or purpose does not thereby (1) extend any
8 assurance that the premises are safe for such purpose, or (2)
9 constitute the person to whom permission is granted an invitee to
10 whom a duty of care is owed, or (3) assume responsibility for or
11 incur liability for any injury to person or property caused by any
12 act of persons to whom the permission is granted.

13 (cf: P.L.1968, c.73, s.2)

14 3. (New section) The provisions of P.L.1968, c.73 (C.2A:42A-2
15 et seq.) shall be liberally construed to serve as an inducement to
16 the owners, lessees and occupants of property, that might
17 otherwise be reluctant to do so for fear of liability, to permit
18 persons to come onto their property for sport and recreational
19 activities.

20 4. Section 1 of P.L.1985, c.431 (C.2A:42A-6) is amended to
21 read as follows:

22 1. An owner, lessee or occupant of agricultural or horticultural
23 lands as defined in P.L.1983, c.522 (C.2C:18-4 et seq.) who grants
24 permission to operate a motorized vehicle, snowmobile,
25 all-terrain vehicle or dirt bike or to ride horseback thereon
26 pursuant to subsection a. of section 2 of that act does not
27 thereby: a. extend any assurance that the premises, including any
28 natural or man-made conditions, are safe for the purposes set
29 forth in that subsection; b. constitute the person to whom
30 permission is granted an invitee or licensee to whom a duty of
31 care is owed; or c. assume responsibility for, or incur liability for,
32 an injury to person or property caused by the act of a person to
33 whom the permission is granted.

34 (cf: P.L.1985, c.431, s.1)

35 5. (New section) For purposes of P.L.1985, c.431 (C.2A:42A-6
36 et seq.) "all-terrain vehicle" means a motor vehicle, designed to
37 travel over any terrain, of a type possessing between three and
38 six rubber tires and powered by a gasoline engine not exceeding
39 600 cubic centimeters, but shall not include golf carts;
40 "snowmobile" means any motor vehicle, designed primarily to
41 travel over ice or snow, of a type which uses sled type runners,
42 skis, an endless belt tread, cleats or any combination of these or
43 other similar means of contact with the surface upon which it is
44 operated, but does not include any farm tractor, highway or other
45 construction equipment, or any military vehicle; "dirt bike"
46 means a motor powered vehicle possessing two or more tires,
47 designed to travel over any terrain and capable of travelling off
48 of paved roads, whether or not such vehicle is subject to

1 registration with the Division of Motor Vehicles.

2 6. (New section) The provisions of P.L.1985, c.431
3 (C.2A:42A-6 et seq.) shall be liberally construed to serve as an
4 inducement to the owners, lessees and occupants of property,
5 that might otherwise be reluctant to do so for fear of liability, to
6 permit persons to come onto their property for operating a
7 motorized vehicle, snowmobile, all-terrain vehicle or dirt bike or
8 to ride horseback.

9 7. Section 1 of P.L.1973, c.307 (C.39:3C-1) is amended to read
10 as follows:

11 1. As used in this act:

12 a. "Commissioner" means the Commissioner of the
13 Department of Environmental Protection.

14 b. "Director" means the Director of the Division of Motor
15 Vehicles in the Department of Law and Public Safety.

16 c. "Snowmobile" means any motor vehicle, designed primarily
17 to travel over ice or snow, of a type which uses sled type runners,
18 skis, an endless belt tread, cleats or any combination of these or
19 other similar means of contact with the surface upon which it is
20 operated, but does not include any farm tractor, highway or other
21 construction equipment, or any military vehicle.

22 d. "Special event" means an organized race, exhibition or
23 demonstration of limited duration which is conducted according
24 to a prearranged schedule and in which general public interest is
25 manifested.

26 e. "All-terrain vehicle" means a motor vehicle, designed to
27 travel over any terrain, of a type possessing between three and
28 six rubber tires and powered by a gasoline engine not exceeding
29 [400] 600 cubic centimeters, but shall not include golf carts.

30 (cf: P.L.1985, c.375, s.2)

31 8. Section 18 of P.L.1973, c.307 (C.39:3C-18) is amended to
32 read as follows:

33 18. a. No person shall operate a snowmobile or all-terrain
34 vehicle on the property of another without receiving the consent
35 of the owner of the property [or] and the person who has a
36 contractual right to the use of such property;

37 b. No person shall continue to operate a snowmobile or
38 all-terrain vehicle on the property of another after consent, as
39 provided in subsection a. above, has been withdrawn.

40 c. No owner of real property and no person or entity having a
41 contractual right to the use of real property, no matter where
42 such property is situate in this State, shall assume responsibility
43 or incur liability for any injury or damage to an owner, operator
44 or occupant of a snowmobile or all terrain vehicle where such
45 injury or damage occurs during, or arises out of the operation or
46 use of such vehicle, unless: (1) the operation or use is with the
47 express consent of the owner and contractual user of the property
48 and (2) the provisions of P.L.1968, c.73 (C.2A:42A-2 et seq.) or

1 P.L.1985, c.431 (C.2A:42A-6 et seq.) do not limit liability. This
2 subsection shall not limit the liability which would otherwise
3 exist for the willful or malicious creation of a hazardous
4 condition.

5 (cf: P.L.1985, c.375, s.18)

6 9. This act shall take effect immediately.

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9 STATEMENT

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11 This bill clarifies that statutory provisions which limit
12 landowners' liability under certain circumstances for sporting or
13 recreational activities also extend to the operation of a
14 snowmobile, all-terrain vehicle or dirt bike. The bill amends the
15 definition of "sports and recreational activities" under the
16 Landowners' Liability Act, N.J.S.A.2A:42A-2 et seq. to
17 specifically include operation of snowmobiles, all-terrain vehicles
18 or dirt bikes within that definition. The bill provides that the
19 duty to keep the property safe as provided for in
20 N.J.S.A.2A:42A-3 applies whether the property is in a natural or
21 improved state or whether there is a commercial enterprise on
22 the property. That duty is limited by N.J.S.A.2A:42A-4 which is
23 not amended by this bill. The bill makes similar changes with
24 regard to horticultural and agricultural lands pursuant to
25 N.J.S.A.2A:42A-6 which currently extends limited liability for
26 operation of motorized vehicles or horseback riders to clarify
27 that snowmobiles, all-terrain vehicles and dirt bikes are covered.
28 It also provides supplementary sections to each of those laws to
29 indicate the provisions shall be liberally construed to serve as an
30 inducement to permit persons to use the property for recreational
31 activities. The bill amends sections in the motor vehicle laws
32 concerning the necessity for landowners' permission for
33 snowmobile and all-terrain vehicle activities on property to
34 account for the possible application of the limited liability as
35 provided in N.J.S.A.2A:42A-2 et seq. and N.J.S.A.2A:42A-6 et
36 seq. and to provide that the permission of both the owner of the
37 property and the person who has a contractual right to the use of
38 the property is necessary before operating a snowmobile or
39 all-terrain vehicle. Under the current statute the consent of
40 either of those parties is sufficient. The bill amends the motor
41 vehicle provision defining "all-terrain" vehicle for purposes of
42 registration, insurance and other restrictions to include vehicles
43 whose engine capacity extends up to 600 cubic centimeters. The
44 present law provides for a capacity of 400 cubic centimeters.
45 Current manufacturing practice now includes all-terrain vehicle
46 with engines that exceed 500 cubic centimeters.

CIVIL JUSTICE

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Clarifies that limitations on landowners' liability extend to snowmobile, all-terrain vehicle and dirt bike activities; changes motor vehicle definition of "all-terrain vehicle".

ASSEMBLY JUDICIARY, LAW AND
PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4678

STATE OF NEW JERSEY

DATED: DECEMBER 5, 1991

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 4678.

This bill clarifies that statutory provisions which limit landowners' liability under certain circumstances for sporting or recreational activities also extend to the operation of a snowmobile, all-terrain vehicle or dirt bike. The bill amends the motor vehicle provision defining "all-terrain" vehicle for purposes of registration, insurance and other restrictions to include vehicles whose engine capacity extends up to 600 cubic centimeters. The present law provides for a capacity of 400 cubic centimeters. Current manufacturing practice now includes all-terrain vehicle with engines that exceed 500 cubic centimeters. The bill amends the definition of "sports and recreational activities" under the Landowners' Liability Act, N.J.S.A.2A:42A-2 et seq. to specifically include operation of snowmobiles, all-terrain vehicles or dirt bikes within that definition. The bill provides that the duty to keep the property safe as provided for in N.J.S.A.2A:42A-3 applies whether the property is in a natural or improved state or whether there is a commercial enterprise on the property. That duty is limited by N.J.S.A.2A:42A-4 which is not amended by this bill. The bill makes similar changes with regard to horticultural and agricultural lands pursuant to N.J.S.A.2A:42A-6 which currently extends limited liability for operation of motorized vehicles or horseback riders to clarify that snowmobiles, all-terrain vehicles and dirt bikes are covered. The bill indicates that the provisions shall be liberally construed to serve as an inducement to permit persons to use the property for recreational activities. The bill amends sections in the motor vehicle laws concerning the necessity for landowners' permission for snowmobile and all-terrain vehicle activities on property to account for the possible application of the limited liability as provided in N.J.S.A.2A:42A-2 et seq. and N.J.S.A.2A:42A-6 et seq. and to provide that the permission of both the owner of the property and the person who has a contractual right to the use of the property is necessary before operating a snowmobile or all-terrain vehicle. Under the current statute the consent of either of those parties is sufficient.