

AMENDED IN SENATE MAY 16, 2006

AMENDED IN SENATE APRIL 26, 2006

**SENATE BILL**

**No. 1179**

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**Introduced by Senator Morrow**

January 17, 2006

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~~An act to amend Section 831.7 of the Government Code, and to repeal and add~~ *An act to amend* Section 115800 of the Health and Safety Code, relating to recreational activities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1179, as amended, Morrow. Recreational activities: skateboarding.

*Existing law, effective until January 1, 2008, provides that skateboarding at a public skateboard park is a hazardous recreational activity, if all of specified conditions are met, including if the person skateboarding is 14 years of age or older.*

*This bill would reduce that age limit to 12 years of age or older. The bill would also extend the operative dates of those provisions until January 1, 2012, and would make other conforming changes to that provision.*

*Existing law, operative on January 1, 2008, prohibits an operator of a skateboard park from permitting any person to ride a skateboard in the park unless that person is wearing a helmet, elbow pads, and knee pads. Existing law, operative on January 1, 2008, further describes how those requirements may be satisfied with respect to a recreational skateboard facility owned and operated by a local public agency, as specified.*

*This bill would instead make those provisions operative on January 1, 2012.*

~~Under existing law, public entities and public employees are generally not liable to any person who participates in various hazardous recreational activities, including bicycle racing or jumping and mountain bicycling.~~

~~This bill would add skateboarding to that provision of law.~~

~~Existing law, effective until January 1, 2008, provides that skateboarding at a public skateboard park is a hazardous recreational activity, if specified conditions are satisfied. That law, also in effect until January 1, 2008, requires local public agencies to maintain a record of all known or reported injuries incurred by skateboarders in a public skateboard park or facility, and other information regarding these incidents, as specified, and requires that copies of those records be filed annually with the Judicial Council, which is required to report to the Legislature on these incidents and any claims arising therefrom. Existing law also prohibits the operator of a skateboard park to permit a person to ride a skateboard in the park unless the person is wearing a helmet, elbow pads, and knee pads.~~

~~This bill would repeal those provisions. The bill would instead provide that the decision of a local public agency whether to regulate conditions of use at a public skateboard park does not alter a public entity or public employee's immunity from liability to persons who participate in certain hazardous recreational activities.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 115800 of the Health and Safety Code,
- 2     as amended by Section 1 of Chapter 409 of the Statutes of 2002,
- 3     is amended to read:
- 4     115800. (a) No operator of a skateboard park shall permit
- 5     any person to ride a skateboard therein, unless that person is
- 6     wearing a helmet, elbow pads, and knee pads.
- 7     (b) With respect to any facility, owned or operated by a local
- 8     public agency, that is designed and maintained for the purpose of
- 9     recreational skateboard use, and that is not supervised on a
- 10    regular basis, the requirements of subdivision (a) may be
- 11    satisfied by compliance with the following:

1 (1) Adoption by the local public agency of an ordinance  
2 requiring any person riding a skateboard at the facility to wear a  
3 helmet, elbow pads, and knee pads.

4 (2) The posting of signs at the facility affording reasonable  
5 notice that any person riding a skateboard in the facility must  
6 wear a helmet, elbow pads, and knee pads, and that any person  
7 failing to do so will be subject to citation under the ordinance  
8 required by paragraph (1).

9 (c) “Local public agency” for purposes of this section  
10 includes, but is not limited to, a city, county, or city and county.

11 (d) (1) Skateboarding at any facility or park owned or  
12 operated by a public entity as a public skateboard park, as  
13 provided in paragraph (3), shall be deemed a hazardous  
14 recreational activity within the meaning of Section 831.7 of the  
15 Government Code if all of the following conditions are met:

16 (A) The person skateboarding is ~~14~~ 12 years of age or older.

17 (B) The skateboarding activity that caused the injury was  
18 stunt, trick, or luge skateboarding.

19 (C) The skateboard park is on public property that complies  
20 with subdivision (a) or (b).

21 (2) In addition to the provisions of subdivision (c) of Section  
22 831.7 of the Government Code, nothing in this section is  
23 intended to limit the liability of a public entity with respect to  
24 any other duty imposed pursuant to existing law, including the  
25 duty to protect against dangerous conditions of public property  
26 pursuant to Chapter 2 (commencing with Section 830) of Part 2  
27 of Division 3.6 of Title 1 of the Government Code. However,  
28 nothing in this section is intended to abrogate or limit any other  
29 legal rights, defenses, or immunities that may otherwise be  
30 available at law.

31 (3) For public skateboard parks that were constructed on or  
32 before January 1, 1998, this subdivision shall apply to hazardous  
33 recreational activity injuries incurred on or after January 1, 1998,  
34 and before January 1, 2001. For public skateboard parks that are  
35 constructed after January 1, 1998, this subdivision shall apply to  
36 hazardous recreational activity injuries incurred on or after  
37 January 1, 1998, and before January 1, ~~2008~~ 2012. For purposes  
38 of this subdivision, any skateboard facility that is a movable  
39 facility shall be deemed constructed on the first date it is initially  
40 made available for use at any location by the local public agency.

1 (4) The appropriate local public agency shall maintain a record  
2 of all known or reported injuries incurred by a skateboarder in a  
3 public skateboard park or facility. The local public agency shall  
4 also maintain a record of all claims, paid and not paid, including  
5 any lawsuits and their results, arising from those incidents that  
6 were filed against the public agency. Beginning in 1999, copies  
7 of these records shall be filed annually, no later than January 30  
8 each year, with the Judicial Council, which shall submit a report  
9 to the Legislature on or before March 31, ~~2007~~ 2011, on the  
10 incidences of injuries incurred, claims asserted, and the results of  
11 any lawsuit filed, by persons injured while skateboarding in  
12 public skateboard parks or facilities.

13 (5) This subdivision shall not apply on or after January 1,  
14 2001, to public skateboard parks that were constructed on or  
15 before January 1, 1998, but shall continue to apply to public  
16 skateboard parks that are constructed after January 1, 1998.

17 (e) This section shall remain in effect until January 1, ~~2008~~  
18 2012, and as of that date is repealed, unless a later enacted  
19 statute, enacted before January 1, ~~2008~~ 2012, deletes or extends  
20 that date.

21 *SEC. 2. Section 115800 of the Health and Safety Code, as*  
22 *amended by Section 2 of Chapter 409 of the Statutes of 2002, is*  
23 *amended to read:*

24 115800. (a) No operator of a skateboard park shall permit  
25 any person to ride a skateboard therein, unless that person is  
26 wearing a helmet, elbow pads, and knee pads.

27 (b) With respect to any facility, owned or operated by a local  
28 public agency, that is designed and maintained for the purpose of  
29 recreational skateboard use, and that is not supervised on a  
30 regular basis, the requirements of subdivision (a) may be  
31 satisfied by compliance with the following:

32 (1) Adoption by the local public agency of an ordinance  
33 requiring any person riding a skateboard at the facility to wear a  
34 helmet, elbow pads, and knee pads.

35 (2) The posting of signs at the facility affording reasonable  
36 notice that any person riding a skateboard in the facility must  
37 wear a helmet, elbow pads, and knee pads, and that any person  
38 failing to do so will be subject to citation under the ordinance  
39 required by paragraph (1).

1 (c) “Local public agency” for purposes of this section  
2 includes, but is not limited to, a city, county, or city and county.

3 (d) This section shall become operative on January 1, 2008  
4 2012.

5 ~~SECTION 1. Section 831.7 of the Government Code is~~  
6 ~~amended to read:~~

7 ~~831.7. (a) Neither a public entity nor a public employee is~~  
8 ~~liable to any person who participates in a hazardous recreational~~  
9 ~~activity, including any person who assists the participant, or to~~  
10 ~~any spectator who knew or reasonably should have known that~~  
11 ~~the hazardous recreational activity created a substantial risk of~~  
12 ~~injury to himself or herself and was voluntarily in the place of~~  
13 ~~risk, or having the ability to do so failed to leave, for any damage~~  
14 ~~or injury to property or persons arising out of that hazardous~~  
15 ~~recreational activity.~~

16 (b) As used in this section, “hazardous recreational activity”  
17 means a recreational activity conducted on property of a public  
18 entity which creates a substantial (as distinguished from a minor,  
19 trivial, or insignificant) risk of injury to a participant or a  
20 spectator.

21 “Hazardous recreational activity” also means:

22 (1) Water contact activities, except diving, in places where or  
23 at a time when lifeguards are not provided and reasonable  
24 warning thereof has been given or the injured party should  
25 reasonably have known that there was no lifeguard provided at  
26 the time.

27 (2) Any form of diving into water from other than a diving  
28 board or diving platform, or at any place or from any structure  
29 where diving is prohibited and reasonable warning thereof has  
30 been given.

31 (3) Animal riding, including equestrian competition, archery,  
32 bicycle racing or jumping, mountain bicycling, boating,  
33 cross-country and downhill skiing, hang gliding, kayaking,  
34 motorized vehicle racing, off-road motorcycleing or four-wheel  
35 driving of any kind, orienteering, pistol and rifle shooting, rock  
36 climbing, rocketeering, rodeo, skateboarding, spelunking, sky  
37 diving, sport parachuting, paragliding, body contact sports (i.e.,  
38 sports in which it is reasonably foreseeable that there will be  
39 rough bodily contact with one or more participants), surfing,  
40 trampolining, tree climbing, tree rope swinging, waterskiing,

1 white water rafting, and windsurfing. For the purposes of this  
2 subdivision, “mountain bicycling” does not include riding a  
3 bicycle on paved pathways, roadways, or sidewalks.

4 (e) Notwithstanding the provisions of subdivision (a), this  
5 section does not limit liability which would otherwise exist for  
6 any of the following:

7 (1) Failure of the public entity or employee to guard or warn  
8 of a known dangerous condition or of another hazardous  
9 recreational activity known to the public entity or employee that  
10 is not reasonably assumed by the participant as inherently a part  
11 of the hazardous recreational activity out of which the damage or  
12 injury arose.

13 (2) Damage or injury suffered in any case where permission to  
14 participate in the hazardous recreational activity was granted for  
15 a specific fee. For the purpose of this paragraph, a “specific fee”  
16 does not include a fee or consideration charged for a general  
17 purpose such as a general park admission charge, a vehicle entry  
18 or parking fee, or an administrative or group use application or  
19 permit fee, as distinguished from a specific fee charged for  
20 participation in the specific hazardous recreational activity out of  
21 which the damage or injury arose.

22 (3) Injury suffered to the extent proximately caused by the  
23 negligent failure of the public entity or public employee to  
24 properly construct or maintain in good repair any structure,  
25 recreational equipment or machinery, or substantial work of  
26 improvement utilized in the hazardous recreational activity out of  
27 which the damage or injury arose.

28 (4) Damage or injury suffered in any case where the public  
29 entity or employee recklessly or with gross negligence promoted  
30 the participation in or observance of a hazardous recreational  
31 activity. For purposes of this paragraph, promotional literature or  
32 a public announcement or advertisement which merely describes  
33 the available facilities and services on the property does not in  
34 itself constitute a reckless or grossly negligent promotion.

35 (5) An act of gross negligence by a public entity or a public  
36 employee which is the proximate cause of the injury.

37 Nothing in this subdivision creates a duty of care or basis of  
38 liability for personal injury or for damage to personal property.

39 (d) Nothing in this section shall limit the liability of an  
40 independent concessionaire, or any person or organization other

1 than the public entity, whether or not the person or organization  
2 has a contractual relationship with the public entity to use the  
3 public property, for injuries or damages suffered in any case as a  
4 result of the operation of a hazardous recreational activity on  
5 public property by the concessionaire, person, or organization.

6 ~~SEC. 2. Section 115800 of the Health and Safety Code, as~~  
7 ~~amended by Section 1 of Chapter 409 of the Statutes of 2002, is~~  
8 ~~repealed.~~

9 ~~SEC. 3. Section 115800 of the Health and Safety Code, as~~  
10 ~~amended by Section 2 of Chapter 409 of the Statutes of 2002, is~~  
11 ~~repealed.~~

12 ~~SEC. 4. Section 115800 is added to the Health and Safety~~  
13 ~~Code, to read:~~

14 ~~115800. (a) The decision of a local public agency whether to~~  
15 ~~regulate conditions of use at a public skateboard park does not~~  
16 ~~alter a public entity or public employee's immunity from liability~~  
17 ~~to persons who participate in hazardous recreational activities,~~  
18 ~~pursuant to Section 831.7 of the Government Code.~~

19 ~~(b) For purposes of this section, "local public agency"~~  
20 ~~includes, but is not limited to, a city, county, city and county, and~~  
21 ~~special district.~~