

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 224

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Steve Komadina

ACT

RELATING TO TORTS; LIMITING TORT LIABILITY FOR HOT AIR BALLOON
ACTIVITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Hot Air Balloon Liability Act".

Section 2. LEGISLATIVE PURPOSE AND FINDINGS.--The
legislature recognizes that a person who participates in a hot
air balloon activity may incur injury as a result of the risks
inherent in the activity. The legislature also finds that the
state and its citizens derive numerous personal and economic
benefits from hot air balloon activities. It is the purpose of
the legislature to encourage hot air balloon activities by
providing that a person participating in a hot air balloon
activity shall not recover for an injury that proximately

.163007.1

underscored material = new
[bracketed material] = delete

1 results from the risks inherent in the activity.

2 Section 3. DEFINITIONS.--As used in the Hot Air Balloon
3 Liability Act:

4 A. "hot air balloon activity" means a hot air
5 balloon flight or performance;

6 B. "hot air balloon activity organizer" means a
7 person that organizes or sponsors a hot air balloon activity;

8 C. "hot air balloon operator" means a hot air
9 balloon pilot or a person that assists the pilot in launching,
10 flying, landing or operating the hot air balloon;

11 D. "hot air balloon park" means a hot air balloon
12 launch site, land site or show site that is open to the public
13 for the observation of hot air balloon activities;

14 E. "land site" means land that a hot air balloon
15 lands upon with the permission of a person that owns, leases,
16 rents or otherwise is in lawful possession and control of the
17 land;

18 F. "launch site" means land that a hot air balloon
19 launches from with the permission of a person that owns,
20 leases, rents or otherwise is in lawful possession and control
21 of the land;

22 G. "observer" means a person who visits a hot air
23 balloon park to observe hot air balloon activity with the
24 permission of the person that owns, leases, rents or otherwise
25 is in lawful possession and control of the land; and

.163007.1

underscoring material = new
[bracketed material] = delete

1 H. "show site" means land upon which a balloon
2 operator conducts a hot air balloon activity for an audience
3 with the permission of the person that owns, leases, rents or
4 otherwise is in lawful possession and control of the land.

5 Section 4. LIMITATION OF LIABILITY.--An owner, lessee,
6 renter or lawful possessor of a hot air balloon park, a hot air
7 balloon activity organizer or a hot air balloon operator is not
8 liable for injury, loss or damage that results from the risks
9 inherent in a hot air balloon activity unless the owner,
10 lessee, renter or lawful possessor of the hot air balloon park,
11 the hot air balloon activity organizer or the hot air balloon
12 operator:

13 A. provides hot air balloon equipment and knows or
14 should know that the equipment is faulty and an injury
15 proximately results from the faulty condition of the equipment;

16 B. provides a hot air balloon and fails to make a
17 reasonable effort to determine the ability of the hot air
18 balloon operator to engage safely in a hot air balloon
19 activity;

20 C. commits an act or omission that constitutes a
21 reckless disregard for the safety of a hot air balloon
22 operator, passenger or observer and an injury proximately
23 results from the act or omission; or

24 D. intentionally injures a hot air balloon
25 operator, passenger or observer.

.163007.1

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 5. POSTING OF NOTICE.--A hot air balloon park owner shall post a clearly visible sign in at least one prominent location in the hot air balloon park. The sign shall include a warning regarding the inherent risks of hot air balloon activities and the limitations on liability of the owner, lessee, renter or lawful possessor of the hot air balloon park, the hot air balloon activity organizer and the hot air balloon operator.