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SENATE BILL 156

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO TORTS; ESTABLISHING THE DEFENSE OF ASSUMPTION OF RISK.

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

Section 1. A new section of Chapter 41, Article 3A NMSA 1978 is enacted to read:

"NEW MATERIAL ASSUMPTION OF RISK DEFENSE. -- In any action to which the doctrine of comparative fault otherwise applies, a defendant is not liable if the plaintiff assumed the risk of injury or harm. As used in this section, "assumption of the risk" means that the plaintiff knew of and appreciated the risk and voluntarily exposed himself to the danger that proximately caused the injury or harm. The elements of assumption of the risk may be inferred, as a matter of fact or law, from circumstantial evidence that the plaintiff knew and appreciated

underscoring material = new
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the risk of injury or harm and voluntarily encountered it. "

- 2 -