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HOUSE BILL 247

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Gail Armstrong

AN ACT

RELATING TO RECREATION; ENACTING THE SKYDIVING SAFETY ACT.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be cited as the "Skydiving Safety Act".

SECTION 2. ~~[NEW MATERIAL]~~ LEGISLATIVE FINDINGS.--In order to safeguard health, safety and welfare of the residents of New Mexico, it is the policy of New Mexico to protect its residents and visitors from unnecessary hazards in the operation of drop zones and to require liability insurance to be carried by drop zone operators, insuring the facility's ground-based operations. New Mexico, through the enactment of the Skydiving Safety Act, recognizes there are inherent risks in skydiving, which should be understood by skydivers and that cannot be eliminated by drop zone operators. The purpose of the

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1 Skydiving Safety Act is to define those risks that are inherent
2 and limit the liability of drop zone operators from losses
3 resulting from those inherent risks.

4 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
5 Skydiving Safety Act:

6 A. "aircraft" means an airplane, helicopter, hot
7 air balloon, glider and any other device that is used or
8 intended to be used for flight in the air;

9 B. "basic safety requirements" means the minimum
10 standards published by the United States parachute association
11 for safe skydiving activities;

12 C. "canopy" means the component of the parachute
13 system comprised of fabric membranes that connect to the
14 parachute harness by suspension lines that provide the means
15 for the skydiver to descend safely;

16 D. "drop zone" means the intended landing area for
17 a skydiver, including the related real property and
18 improvements owned, permitted, leased or controlled by a drop
19 zone operator;

20 E. "drop zone operator" means a person operating a
21 drop zone, whether permanent or temporary, including that
22 person's agents, officers, employees, instructors and
23 representatives;

24 F. "instructor" means a person who holds a current
25 United States parachute association instructor rating in one of

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1 the four recognized methods of instruction;

2 G. "parachute system" means the complete system
3 used for skydiving and any component part thereof, including
4 canopies, reserve canopies, harness-container systems, risers,
5 suspension lines, brake toggles, reserve static lines, main
6 assisted reserve deployment devices, bridles, pilot and drogue
7 parachutes, closing pins, automatic activation devices,
8 cut-away and reserve activation systems, tandem student
9 harnesses, wingsuits and other skydiving-specific clothing;

10 H. "skydive" means descending to the surface of the
11 earth from an aircraft in flight by using or intending to use a
12 parachute system during all or part of that descent;

13 I. "skydiver" means a person who is present at a
14 drop zone for the purpose of engaging in skydiving, including:

15 (1) a person engaged in a skydiving training
16 program, lesson or other class for skydiving instruction; and

17 (2) a person who is present at a drop zone for
18 the purpose of participating in a tandem skydive;

19 J. "skydiving" means the sport of descending to the
20 surface of the earth from an aircraft in flight by using or
21 intending to use a parachute system during all or part of that
22 descent;

23 K. "tandem skydive" means a skydive using a tandem
24 parachute system enabling more than one person to
25 simultaneously use the same parachute system for a skydive; and

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1 L. "training device" means a device, equipment or
2 apparatus used to teach a skydiver or student skydiver how to
3 skydive, including hanging harnesses, standing harnesses and
4 aircraft mockups.

5 **SECTION 4. [NEW MATERIAL] INSURANCE REQUIREMENTS.--A**
6 drop zone operator shall file with the corporations bureau of
7 the office of the secretary of state a certificate of insurance
8 coverage in the amount of at least one hundred thousand dollars
9 (\$100,000) that covers liability of the drop zone operator for
10 any loss, injury or death resulting from a violation of Section
11 6 of the Skydiving Safety Act. A drop zone operator that fails
12 to maintain the insurance requirements of this section shall
13 not receive any of the protections afforded by the Skydiving
14 Safety Act.

15 **SECTION 5. [NEW MATERIAL] RELATION WITH OTHER LAWS.--The**
16 limitation on legal liability provided to a drop zone operator
17 by the Skydiving Safety Act is in addition to any other
18 limitation of legal liability otherwise provided by law,
19 including rights assigned to a party pursuant to an assumption
20 of risk, waiver of liability or indemnity agreement. Drop
21 zones and drop zone operators shall not be construed to be
22 common carriers pursuant to the laws of New Mexico.

23 **SECTION 6. [NEW MATERIAL] DUTIES OF DROP ZONE**
24 **OPERATORS.--A** drop zone operator shall:

25 A. maintain all aircraft owned by the drop zone

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1 operator in accordance with federal aviation administration
2 regulations;

3 B. comply with basic safety requirements unless
4 waived pursuant to United States parachute association rules;

5 C. advise skydivers and other persons at a drop
6 zone on when and how to approach aircraft;

7 D. operate all aircraft owned by the drop zone
8 operator in accordance with federal aviation administration
9 regulations; and

10 E. maintain the drop zone in a manner that is safe
11 for the public to occupy and free of hazards; provided that
12 skydivers in any phase of skydiving, including landing, shall
13 not be deemed to be hazards.

14 SECTION 7. [NEW MATERIAL] LIMITED LIABILITY OF DROP ZONE
15 OPERATORS.--

16 A. Except as provided in Subsection B of this
17 section, a drop zone operator is not liable for loss, injury or
18 death suffered by a skydiver resulting from the inherent risks
19 of skydiving so long as the warning contained in Section 8 of
20 the Skydiving Safety Act is distributed and signed as required.
21 Such warning may be contained in a drop zone operator's
22 assumption of risk form, waiver of liability, or indemnity or
23 other written agreement. Except as provided in Subsection B of
24 this section, a skydiver or skydiver's representative may not
25 maintain an action against or recover from a drop zone operator

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1 for loss, injury or death suffered by a skydiver resulting from
2 the inherent risks of skydiving as follows:

- 3 (1) impact with the ground or with obstacles
4 or structures on the ground;
- 5 (2) impact with persons;
- 6 (3) impact with aircraft;
- 7 (4) impact with airborne obstacles;
- 8 (5) weather conditions;
- 9 (6) parachute system malfunction or failure to
10 function;
- 11 (7) parachute packing;
- 12 (8) unintended opening of a parachute;
- 13 (9) the skydiver's health condition; or
- 14 (10) skydiving training or use of a training
15 device.

16 B. Subsection A of this section does not prevent or
17 limit the liability of a drop zone operator if the drop zone
18 operator:

- 19 (1) commits an act or omission that
20 constitutes willful, wanton or reckless disregard for the
21 safety of a skydiver and that act or omission proximately
22 causes loss to, or injury or death of a skydiver; or
- 23 (2) intentionally injures the skydiver.

24 SECTION 8. [NEW MATERIAL] WARNING AND ACKNOWLEDGMENT
25 REQUIRED.--

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