

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 839

2015 Regular Session

Miguez

LIABILITY/CIVIL: Provides a limitation of liability for certain facilities operated by nonprofit youth organizations

### Synopsis of Senate Amendments

1. Establishes that liability of a nonprofit youth organization or provider may be found when any one of a list of acts or conditions occurs, rather than requiring that all of the acts or conditions occur before the organization may be found liable.
2. Declares that injury, loss, or damage directly resulting from the failure to follow any one of a list of duties set forth in proposed law would subject a nonprofit youth organization or provider to a finding of liability, rather than only if injury, loss or damage directly resulted from the failure to follow all of those duties listed.

### Digest of Bill as Finally Passed by Senate

Proposed law provides for legislative findings relative to the inherent risks in various adventure, educational, or recreational activities sponsored by certain nonprofit youth organizations.

Proposed law defines "adventure, educational, or recreation activities", "Atchafalaya Basin", "nonprofit youth organization", "participant", "person", "provider", and "youth adventure center".

Proposed law establishes the duties of every nonprofit youth organization or provider as follows:

- (1) Make reasonable and prudent efforts to determine the ability of a participant to safely engage in the activity.
- (2) Make known to any participant any dangerous traits or characteristics or any physical impairments or conditions related to a particular activity.
- (3) Make known to any participant any dangerous condition as to land or facilities under the lawful possession and control of the nonprofit youth organization or provider.
- (4) Assure that each participant has or is provided all properly inspected equipment.
- (5) Prepare and present to each participant or prospective participant, for the participant's inspection and signature, a statement which clearly and concisely explains the liability limitations, restrictions, and responsibilities, and require the acknowledgment of the participant's parent or legal guardian.
- (6) Make reasonable efforts to provide supervision of participants while engaged in activities.

Proposed law establishes the duties of each participant as follows:

- (1) Acknowledge that the adventure, educational, or recreational activities are hazardous to participants.
- (2) Expressly acknowledge the risk of and legal responsibility for any injury, loss, or damage to person or property.
- (3) Have the sole individual responsibility for knowing the range of the participant's own ability to participate in a particular adventure, educational, or recreational activity.
- (4) Remain in the area or facility where the adventure, educational, or recreational activity took place in the event of an accident causing injury.

- (5) Require the acknowledgment of the participant's parent or legal guardian.

Proposed law establishes liability for any of the following:

- (1) Injury, loss, or damage directly resulting from the failure to follow any of the duties set forth in proposed law.
- (2) Acts or omissions which constitute gross negligence or willful and wanton conduct which is the direct cause of injury to a participant.
- (3) An intentional act by an agent or employee of the nonprofit youth organization or provider which is the direct cause of injury or damages to a participant.

Proposed law requires every nonprofit youth organization and any provider for such nonprofit youth organization to carry liability insurance in limits of no less than \$1,000,000, per person, \$3,000,000 per occurrence, and \$50,000 for property damage.

Proposed law provides that a nonprofit youth organization, its employees, or agents shall not be responsible for any loss or damages in excess or in addition to the limits of liability insurance coverage required by proposed law, and further provides that failure to carry such insurance shall prevent the nonprofit youth organization or provider from relying on the limitations of liability provided by proposed law.

(Adds R.S. 9:2795.6)