



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

ROLLER SKATING SAFETY ACT

**Senate Bill 134 with committee amendments
First Analysis (11-29-88)**

**Sponsor: Senator Richard D. Fessler
Senate Committee: State Affairs, Tourism, and
Transportation
House Committee: Judiciary**

RECEIVED

JAN 18 1989

Mich. State Law Library

S.B. 134 (11-29-88)

THE APPARENT PROBLEM:

Reportedly, proprietors of roller skating rinks are being sued with increasing frequency. Since 1981, between 35 and 50 lawsuits a year have been filed against the approximately 70 rinks that operate in the state. Rink owners classify many of the suits as "nuisance litigation." They claim that this type of litigation results when skaters sue rink owners for injuries caused by the skaters' own inability or carelessness and not by the owners' negligence. Because even unfounded nuisance suits can be expensive to defend, insurance rates have increased significantly. Complete insurance coverage, which included fire, property, and liability protection, that once cost \$10,000-\$20,000 a year, today costs between \$80,000 and \$100,000. Besides rising insurance rates, rink operators also are experiencing difficulty in obtaining insurance. In fact, it has been reported that no insurance carrier licensed in Michigan will write coverage for roller-skating rinks; as a result, rink operators must either seek insurance coverage from a carrier not licensed in Michigan or go out of business. Roller rinks seek legislation that would clarify that skaters have certain duties and must assume the risks inherent in the sport, while rinks have certain duties to observe safety standards.

THE CONTENT OF THE BILL:

The bill would create the Roller Skating Safety Act of 1988, which would prescribe the duties and liabilities of roller skating center operators and patrons.

Operator duties. Each roller skating center operator would have to: post the duties of skaters, spectators, and operators prescribed by the bill, along with the liabilities of operators; comply with the safety standards published in 1980 by the Roller Skating Rink Operators Association, including maintaining roller skating equipment and surfaces according to those safety standards; and maintain the stability and legibility of all required signs, symbols, and posted notices.

Skater duties. While in a roller skating area, each skater would have to do all of the following: maintain reasonable control of his or her speed and course at all times; read all posted signs and warnings; maintain a proper lookout to avoid other roller skaters and objects; accept the responsibility for knowing the range of his or her own ability to negotiate the intended direction of travel while on roller skates and to skate within the limits of that ability; refrain from acting in a manner that could cause injury to others.

Skater's acceptance of risk. The bill would declare that each participant accepts the "obvious and necessary" dangers of roller skating. Those dangers include injuries from falls and collisions with other skaters or spectators. They also would include injuries involving objects properly within the intended travel of the roller skater which are not

otherwise attributable to the operator's breach of his or her common law duties.

Liability. A roller skater, spectator, or operator who violated the bill would be liable for civil damages for that portion of the loss or damage resulting from the violation.

HOUSE COMMITTEE ACTION:

The House Judiciary committee adopted amendments that, among other things, deleted a section requiring injured skaters to notify operators and operators to notify emergency personnel, and specified that the accepted dangers included injuries involving objects only to the extent that they were not otherwise attributable to the operator's breach of common law duties.

BACKGROUND INFORMATION:

The following background information was provided by the Senate Fiscal Agency in its 3-20-87 analysis of Senate Bill 134.

In 1985, the Michigan Court of Appeals decided the case of *Riedl v Skate World, Inc.* (Docket No. 74765, 10-28-85), which dealt with a situation similar to that which the bill would address. In that case, Mrs. Riedl and her husband brought suit against Skate World's rink in Troy for an injury she sustained while roller skating in competition at the rink. The Riedls claimed that the rink operators failed to prevent Mrs. Riedl from "being subjected to dangerous and unsafe skating activities of other patrons."

The court ruled that Mrs. Riedl was barred from recovering for her injuries because she failed to establish that a dangerous condition existed and, if such a danger had existed, that the rink proprietors breached their duty to prevent such a condition. In addition, the court concluded that Mrs. Riedl knowingly placed "herself in an area of risk which was not created by any unreasonable conduct on the part of the defendant." In reaching this decision, the court noted that "it is well-settled that one who participates in a sport assumes the ordinary risks attendant upon such activities." The court also concluded that by engaging in roller skating, Mrs. Riedl "assumed the risk of unwanted and potentially injurious accidental contact with other skaters." The duty of the rink proprietor, the court indicated, was to "exercise reasonable care" to protect a skater from harm, but the proprietor was not an insurer of a skater's safety.

Proponents of the bill also point to Michigan's Ski Area Safety Act, which requires a skier to accept responsibility for some accidents that might occur on the slopes, as a model for the proposed Roller Skating Safety Act. Among the provisions of the ski safety act is the requirement that ski area operators provide for the safety of skiers,

OVER

spectators, and the public using ski areas; provide for the inspection, licensing, and regulation of ski areas and ski lifts; and require that anyone who skis must accept the dangers inherent in that sport.

(Note: The Michigan Court of Appeals recently ruled in Grieb v Alpine Valley Ski Area, Inc. (Docket No. 85271, 10-21-86), that the Ski Area Safety Act is constitutional. The court rejected arguments that the act was concerned more with the economic well-being of ski operators than with public safety. In upholding the act, the court concluded that the delineation of ski operators' and skiers' duties and responsibilities, along with skiers' assumption of certain inherent dangers, were reasonably related to obtaining the legitimate state objectives of safety, reduction in litigation, and economic stabilization of an industry that substantially contributes to Michigan's economy.)

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would have no fiscal implications. (11-28-88)

ARGUMENTS:

For:

The bill would codify the Michigan Court of Appeals' decision in Riedl v Skate World, Inc. (discussed in "BACKGROUND INFORMATION") which confirmed the established notion that participants in a sport, such as roller skating, must assume the ordinary risks that are inherent in the sport. Proprietors of roller skating rinks should not be considered insurers of a skater's safety, just as ski area operators are not considered insurers of a skier's safety under the Ski Area Safety Act. Rink operators are in the entertainment business and not the insurance business.

For:

Most roller skating rinks in the state are family-owned businesses. Because of the excessive number of lawsuits filed against these businesses and the high cost of defending these suits, no insurance carrier in Michigan will write coverage for these operations. Rink owners, who have been paying staggering insurance rates, are being forced either to close or to risk purchasing insurance from a carrier that is not licensed in Michigan, which is known for its stringent laws concerning the viability of insurance companies. If rink proprietors purchase insurance from a company licensed out of state, they could be in financial jeopardy since these carriers do not have to secure the capital reserves to pay losses, as required in Michigan. Rather, these out-of-state carriers, in some cases, could pay for losses out of insurance premiums. Under these circumstances, rink owners would have to operate with the uncertainty of not knowing whether their insurance companies would pay a large claim or simply go out of business.

Against:

The bill would let rink owners off the hook if they were negligent in operating their businesses. The bill is more concerned with the economic well-being of roller skating rink businesses than with the safety of the skating public. Furthermore, unlike the ski industry, roller skating is not an industry that substantially contributes to Michigan's economy.

Response: Rink owners would have to comply with the duties prescribed in the bill. If a skating rink did not comply

with these safety standards, the bill would make it easier to prove that the owners were running a shoddy business in violation of state law.

POSITIONS:

The Roller Skating Rink Operators Association supports the bill. (11-16-88)

The Michigan Trial Lawyers Association does not oppose the bill with the House committee amendments. (11-16-88)