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BILL ANALYSIS

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**Senate Bill 134 (as enrolled)****Sponsor: Senator Richard D. Fessler****Senate Committee: State Affairs, Tourism, and Transportation****House Committee: Judiciary****PUBLIC ACT 389 of 1988****Date Completed: 1-5-89*****RATIONALE***

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 these types of cases reportedly are 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. Some people contend that roller skaters must assume the risks that are inherent in that sport and rink operators should not be regarded as insurers of a skater's safety.

***CONTENT***

Senate Bill 134 would create the "Roller Skating Safety Act of 1988" to do the following:

- Prescribe the duties and liabilities of roller skating center operators and persons who patronize the skating centers.
- Provide that skaters would accept certain risks in using the centers.
- Provide that a roller skater, spectator, or operator who violated the proposed Act would be liable in a civil action for damages for that portion of the loss or damage that resulted from the violation.

For the purposes of the bill, a "roller skater" would be defined as a person wearing roller skates while in a roller skating center for the purpose of roller skating.

**Operators' Responsibilities**

A roller skating center operator would be required to:

- Post in conspicuous places the proposed duties of roller skaters and spectators as well as the duties, obligations, and liabilities of operators.
- Comply with safety standards specified in the roller skating safety standards published in 1980 by the Roller Skating Rink Operators Association.

- Maintain roller skating equipment and surfaces according to safety standards set by the operators association.
- Maintain the "stability and legibility" of all required signs, symbols, and posted notices.

**Skaters' Responsibilities and Risks**

While in the roller skating area, each skater would be required to:

- Maintain at all times reasonable control over speed and course.
- Read all posted signs and warnings.
- Keep a proper lookout to avoid other skaters and objects.
- Know the range of his or her ability to negotiate the course and to skate within limits of that ability.
- Refrain from acting in a manner that could injure others.

Each skater would accept the danger inherent to skating, insofar as the dangers were obvious and necessary. Those dangers would include but not be limited to injuries that resulted from collisions with other roller skaters or spectators or from falls, and injuries involving objects or artificial structures properly within the intended travel of the skater, that were not otherwise attributable to the operator's breach of his or her common law duties.

***BACKGROUND***

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

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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, 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 accept the dangers inherent in that sport.

(Note: In 1986, the Michigan Court of Appeals ruled in Grieb v Alpine Valley Ski Area, Inc. (155 Mich App 484), 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 IMPACT**

The bill would have no fiscal impact on State or local government.

## **ARGUMENTS**

### ***Supporting Argument***

The bill would codify the Michigan Court of Appeals' decision in Riedl v Skate World, Inc. (discussed above under "BACKGROUND") 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.

### ***Supporting Argument***

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, it has been reported that 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, may pay for losses out of insurance premiums. Under these circumstances, rink owners have to operate with the uncertainty of not knowing whether their insurance company will pay a large claim or simply go out of business.

### ***Opposing Argument***

The bill would let rink owners off the hook, if they were negligent in operating their business. 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.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.