

April 7, 2009

H 1155. LIMIT LIABILITY/WHITE-WATER RAFTING. Filed 4/7/09. *TO LIMIT THE LIABILITY OF PROVIDERS OF WHITE-WATER RAFTING ACTIVITIES IN THIS STATE.*

Enacts new GS 99E-35 through GS 99E-40 to encourage white-water rafting, kayaking, and canoeing (white-water boating activities) by discouraging claims based on injury, death, or damages resulting from inherent risks in these activities. Provides that (1) persons who participate in white-water boating activities assume the inherent risks of these activities, provided that the provider or instructor offering or conducting white-water boating activities complies with notice requirements in GS 99E-38 and (2) that the persons participating in these activities are legally responsible for all injuries, deaths, or damages to the persons or property resulting from the inherent risks of the white-water boating activities. Exempts a provider or instructor from (1) the responsibility to eliminate, alter, or control the inherent risks of white-water boating activities and (2) liability for all injuries, deaths, or damages to persons or property resulting from the inherent risks of the white-water boating activities. Requires that every provider or instructor post and maintain signs in a clearly visible location where the white-water boating activities are conducted and include in any written contracts a notice which contains specified information describing the provisions of this law. Failure to comply with these notice requirements prevents a provider from invoking the privileges of immunity. Does not preclude an action based on negligence of the provider or instructor, or design or manufacture defect of equipment, products, or safety equipment used incidental to or required in white-water boating activities. Does not prevent or limit liability of a provider or instructor who commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of participants if that act or omission injures, kills, or damages a participant. Does not negate the use of assumption of risk as an affirmative defense. Provides a definitions section for terms as used in this act. Effective for activities engaged in or actions that arise on or after October 1, 2009.

Intro. by Frye, West.

GS 99E