

By: Representative Baker (74th)

To: Judiciary A

## HOUSE BILL NO. 418

1 AN ACT TO PROVIDE CERTAIN IMMUNITY FOR MOTOCROSS OR MOUNTAIN  
2 BIKE ACTIVITIES AND FOR THE PERSONS ENGAGED IN SUCH ACTIVITIES; TO  
3 DEFINE CERTAIN TERMS; TO SPECIFY THE EXTENT OF IMMUNITY PROVIDED  
4 UNDER THIS ACT; TO SPECIFY ACTIVITIES FOR WHICH SUCH IMMUNITY  
5 SHALL NOT APPLY; TO REQUIRE THE POSTING OF WARNINGS RELATED TO THE  
6 IMMUNITY GRANTED UNDER THIS ACT; TO AMEND SECTION 95-9-1,  
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** The Legislature recognizes that persons who  
10 participate in motocross or mountain bike shows or activities may  
11 incur injuries as a result of the risks involved in such  
12 activities. The Legislature also finds that the state and its  
13 citizens derive numerous economic and personal benefits from such  
14 activities. The Legislature finds, determines and declares that  
15 this chapter is necessary for the immediate preservation of the  
16 public peace, health and safety. It is, therefore, the intent of  
17 the Legislature to encourage motocross and mountain bike shows and  
18 activities by limiting the civil liability of those involved in  
19 such activities.

20 **SECTION 2.** As used in this chapter, the following words and  
21 phrases shall have the meanings ascribed herein unless the context  
22 clearly indicates otherwise:

23 (a) "Engages in motocross or mountain bike shows or  
24 activity" means riding, training, providing or assisting in  
25 providing medical treatment of, driving, or being a passenger upon  
26 a motorcycle or mountain bike, or any person assisting a  
27 participant or show management. The term "engages in motocross or  
28 mountain bike shows or activity" does not include being a  
29 spectator at a motocross or mountain bike show or activity, except

30 in cases where the spectator places himself in an unauthorized  
31 area and in immediate proximity to the motocross or mountain bike  
32 show or activity.

33 (b) "Motocross or mountain bike show or activity" means  
34 an event where participants ride motorcycles or mountain bikes in  
35 competition with other riders whether or not the winners receive  
36 any awards or other consideration for participation.

37 (c) "Motocross or mountain bike activity sponsor" means  
38 an individual, group, club, partnership or corporation, whether or  
39 not the sponsor is operating for profit or nonprofit, which  
40 sponsors, organizes or provides the facilities for a motocross or  
41 mountain bike activity or show including, but not limited to,  
42 riding clubs, school and college sponsored classes, programs, and  
43 operators, instructors, and promoters of motocross or mountain  
44 bike facilities, including, any area or arenas at which the  
45 activity is held.

46 (d) "Motocross or mountain bike professional" means a  
47 person engaged for compensation in:

48 (i) Instructing a participant or renting to a  
49 participant, a motorcycle or mountain bike for the purpose of  
50 riding, driving or being a passenger upon the motorcycle or  
51 mountain bike.

52 (ii) Renting equipment to a participant.

53 (iii) Examining or administering medical treatment  
54 to a participant in such activities.

55 (e) "Inherent risks of motocross or mountain bike  
56 activities" means those dangers or conditions which are an  
57 integral part of motocross or mountain bike activities.

58 (f) "Participant" means any person, whether amateur or  
59 professional, who engages in a motocross or mountain bike activity  
60 or show, whether or not a fee is paid to participate in the  
61 activity or show.

62           SECTION 3. (1) Except as provided in subsection (2) of this  
63 section, a motocross or mountain bike activity sponsor, a  
64 motocross or mountain bike professional, or any other person,  
65 which shall include a corporation or partnership, shall not be  
66 liable for an injury to or the death of a participant resulting  
67 from the inherent risks of motocross or mountain bike activities  
68 or shows and, except as provided in subsection (2) of this  
69 section, a participant's representative shall not make any claim  
70 against, or recover from a motocross or mountain bike  
71 professional, or any other person for injury, loss, damage or  
72 death of the participant resulting from any of the inherent risks  
73 of motocross or mountain bike activities or shows.

74           (2) Nothing in subsection (1) of this section shall prevent  
75 or limit the liability of a motocross or mountain bike activity  
76 sponsor, a motocross or mountain bike professional or any other  
77 person if the motocross or mountain bike activity sponsor,  
78 motocross or mountain bike professional or person:

79           (a) (i) Provided the equipment and knew or should have  
80 known that the equipment was faulty, and such equipment was faulty  
81 to the extent that it did cause the injury.

82           (ii) Provided the motorcycle or mountain bike and  
83 failed to make reasonable and prudent efforts to determine the  
84 ability of the participant to engage safely in the motocross or  
85 mountain bike activity or show and to safely manage the particular  
86 equipment based on the participant's representations of his  
87 ability.

88           (b) Owns, leases, rents or otherwise is in lawful  
89 possession and control of the land or facilities upon which the  
90 participant sustained injuries because of a dangerous latent  
91 condition which was known or should have been known to the  
92 motocross or mountain bike activity sponsor, motocross or mountain  
93 bike professional or person, and for which warning signs have not  
94 been conspicuously posted.

95 (c) Commits an act or omission that constitutes willful  
96 or wanton disregard for the safety of the participant, and that  
97 act or omission caused the injury.

98 (d) Intentionally injures the participant.

99 (3) Nothing in subsection (1) of this section shall prevent  
100 or limit the liability of a motocross or mountain bike activity  
101 sponsor or a motocross or mountain bike professional under  
102 liability provisions as set forth in products liability laws.

103 **SECTION 4.** (1) Every motocross or mountain bike activity  
104 sponsor and every motocross or mountain bike professional shall  
105 post and maintain signs which contain the warning notice specified  
106 in subsection (2) of this section. Such signs shall be placed in  
107 a clearly visible location on tracks, areas or arenas where the  
108 motocross or mountain bike activity sponsor or the motocross or  
109 mountain bike professional conducts motocross or mountain bike  
110 activities or shows. The warning notice specified in subsection  
111 (2) of this section shall appear on the sign in black letters,  
112 with each letter to be a minimum of one (1) inch in height. Every  
113 written contract entered into by a motocross or mountain bike  
114 professional or by a motocross or mountain bike activity sponsor  
115 for the providing of professional services, instruction or the  
116 rental of equipment, or a motocross or mountain bike participant,  
117 whether or not the contract involves motocross or mountain bike  
118 activities or shows on or off the location or site of the  
119 motocross or mountain bike activity sponsor's or the motocross or  
120 mountain bike professional's business, shall contain in clearly  
121 readable print the warning notice specified in subsection (2) of  
122 this section.

123 (2) The signs and contracts described in subsection (1) of  
124 this section shall contain the following warning notice:

125 WARNING:

126 Under Mississippi law, a motocross or mountain bike  
127 activity sponsor or a motocross or mountain bike professional

128 is not liable for an injury to or the death of a participant  
129 in motocross or mountain bike activities or shows resulting  
130 from the inherent risks of motocross or mountain bike  
131 activities or shows, pursuant to this chapter.

132 (3) Failure to comply with the requirements concerning  
133 warning signs and notices provided in this section shall prevent a  
134 motocross or mountain bike activity sponsor or motocross or  
135 mountain bike professional from invoking the privileges of  
136 immunity provided by this chapter.

137 **SECTION 5.** Section 95-9-1, Mississippi Code of 1972, is  
138 amended as follows:

139 95-9-1. (1) For the purposes of this section, unless the  
140 context otherwise requires:

141 (a) "Qualified volunteer" means any person who freely  
142 provides services, goods or the use of real or personal property  
143 or equipment, without any compensation or charge to any volunteer  
144 agency in connection with a volunteer activity. For purposes of  
145 this chapter, reimbursement of actual expenses, including travel  
146 expenses, necessarily incurred in the discharge of a member's  
147 duties, insurance coverage and workers' compensation coverage of  
148 volunteers, shall not be considered monetary compensation.

149 (b) "Volunteer agency" means any department,  
150 institution, community volunteer organization or any nonprofit  
151 corporation designated 501(c)(3) by the United States Internal  
152 Revenue Service, except an agency established primarily for the  
153 recreational benefit of its stockholders or members. Volunteer  
154 agency shall also include any volunteer fire fighter association  
155 which is eligible to be designated as a nonprofit corporation  
156 under 501(c)(3) by the United States Internal Revenue Service.

157 (c) "Volunteer activity" means any activity within the  
158 scope of any project, program or other activity regularly  
159 sponsored by a volunteer agency with the intent to effect a  
160 charitable purpose, or other public benefit including, but not

161 limited to, fire protection, rescue services, the enhancement of  
162 the cultural, civic, religious, educational, scientific or  
163 economic resources of the community, equine activity as provided  
164 in Sections 95-11-1 et seq. or motocross or mountain bike activity  
165 as provided in House Bill No. \_\_\_\_\_, 2006 Regular Session.

166 (2) A qualified volunteer shall not be held vicariously  
167 liable for the negligence of another in connection with or as a  
168 consequence of his volunteer activities.

169 (3) A qualified volunteer who renders assistance to a  
170 participant in, or a recipient, consumer or user of the services  
171 or benefits of a volunteer activity shall not be liable for any  
172 civil damages for any personal injury or property damage caused to  
173 a person as a result of any acts or omissions committed in good  
174 faith except:

175 (a) Where the qualified volunteer engages in acts or  
176 omissions which are intentional, willful, wanton, reckless or  
177 grossly negligent; or

178 (b) Where the qualified volunteer negligently operates  
179 a motor vehicle, aircraft, boat or other powered mode of  
180 conveyance.

181 **SECTION 6.** This act shall take effect and be in force from  
182 and after July 1, 2006.