

Senate Bill No. 994

CHAPTER 409

An act to amend and repeal Section 115800 of the Health and Safety Code, relating to liability.

[Approved by Governor September 6, 2002. Filed with Secretary of State September 9, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 994, Morrow. Liability: public skateboard parks.

Existing law, in effect until January 1, 2003, provides that skateboarding at a public skateboard park that is constructed after January 1, 1998, is a hazardous recreational activity if the person skateboarding is 14 years of age or older, the skateboarding activity is stunt, trick, or luge skateboarding, and the skateboard park is on public property, as specified. That law, also in effect until January 1, 2003, requires local public agencies to maintain a record of all known or reported injuries incurred by skateboarders in a public skateboard park or facility, and other information regarding these incidents, as specified, and requires that copies of those records be filed annually with the Judicial Council which is required to submit a report to the Legislature by March 31, 2000, on these incidents, including claims arising therefrom.

This bill would extend, until January 1, 2008, the operation of these provisions and would require the Judicial Council to submit a report to the Legislature on or before March 31, 2007, on the incidents reported by local agencies. By extending the date for recordkeeping duties on local public agencies, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 115800 of the Health and Safety Code, as added by Section 1 of Chapter 573 of the Statutes of 1997, is amended to read:

115800. (a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and knee pads.

(b) With respect to any facility, owned or operated by a local public agency, that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements of subdivision (a) may be satisfied by compliance with the following:

(1) Adoption by the local public agency of an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads.

(2) The posting of signs at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under the ordinance required by paragraph (1).

(c) “Local public agency” for purposes of this section includes, but is not limited to, a city, county, or city and county.

(d) (1) Skateboarding at any facility or park owned or operated by a public entity as a public skateboard park, as provided in paragraph (3), shall be deemed a hazardous recreational activity within the meaning of Section 831.7 of the Government Code if all of the following conditions are met:

(A) The person skateboarding is 14 years of age or older.

(B) The skateboarding activity that caused the injury was stunt, trick, or luge skateboarding.

(C) The skateboard park is on public property that complies with subdivision (a) or (b).

(2) In addition to the provisions of subdivision (c) of Section 831.7 of the Government Code, nothing in this section is intended to limit the liability of a public entity with respect to any other duty imposed pursuant to existing law, including the duty to protect against dangerous conditions of public property pursuant to Chapter 2 (commencing with Section 830) of Part 2 of Division 3.6 of Title 1 of the Government Code. However, nothing in this section is intended to abrogate or limit any other legal rights, defenses, or immunities that may otherwise be available at law.

(3) For public skateboard parks that were constructed on or before January 1, 1998, this subdivision shall apply to hazardous recreational



activity injuries incurred on or after January 1, 1998, and before January 1, 2001. For public skateboard parks that are constructed after January 1, 1998, this subdivision shall apply to hazardous recreational activity injuries incurred on or after January 1, 1998, and before January 1, 2008. For purposes of this subdivision, any skateboard facility that is a movable facility shall be deemed constructed on the first date it is initially made available for use at any location by the local public agency.

(4) The appropriate local public agency shall maintain a record of all known or reported injuries incurred by a skateboarder in a public skateboard park or facility. The local public agency shall also maintain a record of all claims, paid and not paid, including any lawsuits and their results, arising from those incidents that were filed against the public agency. Beginning in 1999, copies of these records shall be filed annually, no later than January 30 each year, with the Judicial Council, which shall submit a report to the Legislature on or before March 31, 2007, on the incidences of injuries incurred, claims asserted, and the results of any lawsuit filed, by persons injured while skateboarding in public skateboard parks or facilities.

(5) This subdivision shall not apply on or after January 1, 2001, to public skateboard parks that were constructed on or before January 1, 1998, but shall continue to apply to public skateboard parks that are constructed after January 1, 1998.

(e) This section shall remain in effect until January 1, 2008, and as of that date is repealed, unless a later enacted statute, enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Section 115800 of the Health and Safety Code, as added by Section 2 of Chapter 573 of the Statutes of 1997, is amended to read:

115800. (a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and knee pads.

(b) With respect to any facility, owned or operated by a local public agency, that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements of subdivision (a) may be satisfied by compliance with the following:

(1) Adoption by the local public agency of an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads.

(2) The posting of signs at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under the ordinance required by paragraph (1).



(c) “Local public agency” for purposes of this section includes, but is not limited to, a city, county, or city and county.

(d) This section shall become operative on January 1, 2008.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

