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**HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE**

BILL ANALYSIS

BILL NO. HB 469 **P.N.** 528
COMMITTEE: Judiciary

SPONSOR: Caltagirone
DATE: 04/12/91

PROPOSAL: To define and limit the responsibilities and liabilities of roller skating rink operators and of persons who utilize such rinks.

EXISTING LAW: There is no specific legislation or case law dealing with the responsibilities of roller skaters or with the responsibilities and liabilities of roller skating rink operators. The general precepts of negligence and tort liability apply in such cases - - the doctrine of assumption of the risk is sharply limited under existing Pennsylvania case law - - children under the age of 7 are considered incapable of contributory negligence, and children between the ages of 7 and 14 are presumptively deemed not to have been contributorily negligent but can be proved to have been contributorily negligent in the existing case. The doctrine of comparative negligence would apply in cases where the injured persons are deemed to have been guilty of some degree of contributory negligence, so that their contributory negligence does not bar recovery by them from negligent rink operators.

ANALYSIS: HB 469 declares it to be legislative policy to make the incidence of liability of roller skating rink operators to be more predictable by defining the limits of the liabilities of roller skating rink operators in order to encourage the development and implementation of risk reduction techniques and make it feasible for rinks to secure insurance coverage in order to stay in business and perpetuate the recreational sport of roller skating.

Under §4 of HB 469, it would be the responsibility of rink operators, to the extent practicable, to:

- 1) Post the duties of roller skaters and spectators and the duties, obligations and liabilities of the rink operator as prescribed by HB 469, in at least three conspicuous locations in the rink;
- 2) Maintain the stability and legibility of all signs, symbols and posted notices required under HB469;
- 3) Have at least one floor guard on duty for approximately every 200 skaters when the rink is open for sessions;
- 4) Maintain the skating surface in reasonably safe condition and to clean and inspect the surface before each session;
- 5) Maintain the railings, kickboards and wall surrounding the skating surface in reasonably safe condition;

- 6) Ensure that the covering on the riser in rinks with step-up or step-down skating surfaces is securely fastened;
- 7) Install and inspect fire extinguishers at recommended intervals;
- 8) Provide reasonable security in parking areas during operational hours;
- 9) Inspect emergency lighting units periodically to ensure that the lights are in proper order;
- 10) Keep exit lights and surface lights on when skating surface lights are turned off during special numbers;
- 11) Check rental skates on a regular basis to ensure that the skates are in good mechanical condition;
- 12) Prohibit the sale or use of alcoholic beverages on the premises;
- 13) Comply with all applicable State and local safety codes.

§5 of HB 469 defines the duties of all roller skaters (including children). Each roller skater shall:

- 1) Maintain reasonable control of the speed and course at all times;
- 2) Heed all posted signs and warnings;
- 3) Maintain a proper lookout to avoid other roller skaters and objects;
- 4) Accept the responsibility for knowing the range of his own ability to negotiate the intended direction of travel while on roller skates and for skating within the limits of such ability; and
- 5) Refrain from acting in a manner which may cause or contribute to the injury of himself or another person.

§6 of HB 469 provides that roller skaters and spectators are deemed to have knowledge of and to assume the inherent risks of roller skating, insofar as those risks are obvious and necessary. Such risks are defined to include, but not be limited to, injuries which result from incidental contact with other roller skaters or spectators, injuries which result from falls caused by loss of balance and injuries which involve objects or artificial structures properly within the intended path of travel of the roller skater which are not otherwise attributable to breach of the operator's duties as set forth in §4 of HB 469.

In 1980, by Act 142 of 1980, the General Assembly modified the comparative negligence statute of Pennsylvania, 42 Pa.C.S.A. §7102, to provide legislative recognition of the inherent risks of the sport of downhill skiing and a declaration that the doctrine of voluntary assumption of the risk as applied to downhill skiing injuries and

damages shall not be deemed modified by the comparative negligence statute. In Smith v. Seven Springs, Inc., 716 F.2d 1002 (3rd Circuit 1983), this proviso was interpreted to mean that the defense of assumption of the risk in its primary sense is preserved in downhill skiing cases, that is, that if the plaintiff's conduct involuntarily encountering a known risk in downhill skiing is reasonable, then the defense of assumption of the risk operates to deny the defendant's claim to negligence liability in such situation by eliminating the duty of care element of the negligence responsibility.

HB 469 will not eliminate roller skating operator responsibility in negligence cases. What is a "reasonably safe condition", required of the rink operator under §4 of the Act will frequently and perhaps usually constitute an issue of fact for the jury to determine. HB 469 is believed by its proponents to reduce the potentials for rink liability to manageable proportions and to keep this recreational activity insurable and therefore viable.

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LEGISLATIVE IMPACT H.B. 469

Rink

Patron

Establishes statewide uniform safety standards

Skate in facility and use equipment that is deemed to be safe

Ensures proper supervision

Properly supervised

Elevates the level of safety and reduces the number of frivolous claims

Enhances safety precautions and availability of insurance protection in case of injury

Encourages new markets for legitimate liability insurance to cover rinks

Increases potential that injured skaters will be able to press legitimate claims

Defines responsibilities and duties of rink operator to public

Defines responsibilities of skater to public and themselves

Defines negligence whereby operator can demonstrate proper conduct and safety

Defines negligence whereby skater can demonstrate proprietor violated his duty to skating public

Defines negligence for arbitrator and/or jury to have the proper charge

Defines negligence for arbitrator and/or jury to have the proper charge

Encourages reasonable rates for rinks to buy insurance

Increases potential that injured skaters will be able to press legitimate claims

Clearly defines definition of roller rink to eliminate skate board operations presently classified as roller rinks which skews rink rates

Ensures availability of insurance protection in case of injury

Maintains continued existence of rinks in Pennsylvania and protects small business people

Ensures that young people have a safe recreational facility to attend that is drug and alcohol free

Ensures that young people with disabilities have a safe recreational facility to help foster their self image and physical prowess

Ensures that young people and parents have a safe recreational facility for family recreation

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Ensures that young people who compete in various sports related to roller skating will have a safe facility to practice and develop

Ensures that young people and adults have a safe facility in order to conduct fund raisers for various projects

Ensures that adults have a safe recreational facility to attend