



854286

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/15/2009	.	
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The Committee on Judiciary (Constantine) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (g) of subsection (1) and subsection  
(3) of section 549.09, Florida Statutes, is amended to read:

549.09 Motorsport nonspectator liability release.—

(1) As used in this section:

(g) "Nonspectators" means event participants who have  
signed a motorsport liability release and an event participant  
who is a minor, if the minor's natural guardian has signed a



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12 motorsport liability release.

13 (3) (a) A motorsport liability release may be signed by more  
14 than one person if so long as the release form appears on each  
15 page, or side of a page, which is signed. A motorsport liability  
16 release shall be printed in 8 point type or larger.

17 (b) A motorsport liability release signed by a natural  
18 guardian on behalf of the natural guardian's minor child is  
19 valid to the extent provided in this section.

20 Section 2. Subsection (2) of section 744.301, Florida  
21 Statutes, is amended to read:

22 744.301 Natural guardians.—

23 (2) (a) Natural guardians are authorized, on behalf of any  
24 of their minor children, to:

25 1. (a) Settle and consummate a settlement of any claim or  
26 cause of action accruing to any of their minor children for  
27 damages to the person or property of any of said minor children;

28 2. (b) Collect, receive, manage, and dispose of the proceeds  
29 of any such settlement;

30 3. (c) Collect, receive, manage, and dispose of any real or  
31 personal property distributed from an estate or trust;

32 4. (d)

33 5. (e) Collect, receive, manage, dispose of, and make  
34 elections regarding the proceeds of any benefit plan as defined  
35 by s. 710.102, of which the minor is a beneficiary, participant,  
36 or owner,

37  
38 without appointment, authority, or bond, when the amounts  
39 received, in the aggregate, do not exceed \$15,000.

40 (b) In addition to the authority granted in paragraph (a),



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41 a natural guardian is authorized, on behalf of the natural  
42 guardian's minor child, to waive or release, in advance, any  
43 claim or cause of action for negligence or for the inherent  
44 risks involved in an activity which would accrue to the natural  
45 guardian's minor child.

46 1. No such waiver or release signed on behalf of a minor  
47 child shall be effective with respect to any claim or cause of  
48 action based on acts or omissions constituting gross negligence,  
49 recklessness, willful and wanton conduct, or intentional acts on  
50 the part of the activity provider or its employees or agents. No  
51 such waiver or release shall relieve an activity provider or its  
52 employees or agents from liability for any claim or cause of  
53 action based upon criminal conduct in violation of state or  
54 federal law.

55 2. Waivers and releases signed on behalf of a minor child  
56 must state the intention to be relieved from such liability in  
57 clear and unequivocal language such that an ordinary and  
58 knowledgeable party will know what he or she is contracting  
59 away. The execution of a waiver or release shall create a  
60 rebuttable presumption that an ordinary and knowledgeable person  
61 signing the document knew what he or she was contracting away. A  
62 showing in court by a preponderance of the evidence that the  
63 person signing the document did not understand what he or she  
64 was contracting away rebuts the presumption, and the waiver or  
65 release shall not be enforceable.

66  
67  
68 ===== T I T L E A M E N D M E N T =====

69 And the title is amended as follows:



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70 Delete everything before the enacting clause  
71 and insert:

72 An act relating to liability releases; amending s. 549.09,  
73 F.S.; revising the definition of the term "nonspectators" to  
74 include a minor on whose behalf a natural guardian has signed a  
75 motorsport liability release; providing that a motorsport  
76 liability release signed by a natural guardian on behalf of a  
77 minor is valid; amending s. 744.301, F.S.; authorizing natural  
78 guardians to waive and release, in advance, claims for  
79 negligence or inherent risks that would accrue to any of their  
80 minor children; providing exceptions; providing a rebuttable  
81 presumption that an ordinary and knowledgeable person signing  
82 the waiver or release knew what he or she was contracting away;  
83 providing an effective date.

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