

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

SENATE BILL NO. 451  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee for Courts of Justice  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Jordan)

*A BILL to amend the Code of Virginia by adding a section numbered 8.01-219.2, relating to duty of care and liability of landowner; injury or death of person operating off-road motorcycle.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 8.01-219.2 as follows:**

**§ 8.01-219.2. Duty of care and liability of landowner for persons operating off-road motorcycles.**

*A. For purposes of this section:*

*"Land" or "premises" means real property or right-of-way, whether rural or urban, waters, boats, private ways, natural growth, trees, railroad property, railroad right-of-way, utility corridor, and any building or structure that might be located on such real property, waters, boats, private ways, and natural growth.*

*"Landowner" means the legal title holder, any easement holder, the lessee, the occupant, or any other person in control of land or premises.*

*"Off-road motorcycle" means the same as defined in § 46.2-100.*

*B. Except as otherwise provided in this section, no landowner shall be civilly liable to any other person who operates an off-road motorcycle on such landowner's land, regardless of whether such landowner has given such person permission to use such land for such purpose or whether such person has paid a fee to the landowner for use of such land for such purpose, when such person operating an off-road motorcycle understands the inherent risks of such activity, fully appreciates the nature and extent of such risks, and voluntarily accepts such risks, including any dangerous conditions known to the person operating an off-road motorcycle that may exist on such landowner's land. Additionally, no landowner who provides any person with an off-road motorcycle for use on such land, regardless of whether such landowner receives a fee for use of the off-road motorcycle, shall be civilly liable for any injury or death resulting from such person's misuse in operating such off-road motorcycle.*

*C. No landowner who gives permission, express or implied, for another person to operate an off-road motorcycle on the landowner's land shall become an insurer of such person's safety.*

*D. Nothing contained in this section shall limit the liability of a landowner if injury or death arises from the landowner's (i) gross negligence or willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity; (ii) provision of an off-road motorcycle that the landowner knew was*

- 33 *unsafe to the extent that operating such off-road motorcycle would likely result in an injury; or (iii) other act*
- 34 *or omission resulting from gross negligence or willful misconduct.*