



SENATE BILL 100: Aerial Adventure Financial Responsibility.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	March 8, 2017
Introduced by:	Sens. Lee, Meredith, Ford	Prepared by:	Cindy Avrette Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *Senate Bill 100 would establish minimum liability insurance requirements for owners of challenge and aerial courses in North Carolina, effective June 1, 2018.*

CURRENT LAW: There are more than 100 locations in North Carolina that offer experiences involving zip lines or other belayed activities. Most of the locations are at camps. North Carolina law does not regulate zip lines or belayed activities.

BILL ANALYSIS: Senate Bill 100 would create a new Article 47 in Chapter 66 [Commerce and Business] of the General Statutes, entitled "Zip Line and Challenge Course Financial Responsibility". The Article would contain mandatory liability insurance requirements for challenge and aerial course owners and authorize the Commissioner of Insurance to enforce those provisions.

Section 1 would do the following:

- Set forth the definitions that apply in the new Article.
- Require a person that owns or operates a zip line, challenge course or similar activity to have liability insurance coverage of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The contract could not include per person sublimits.
- Provide the Commissioner authority to request proof of insurance and, upon failure to provide proof, prevent or stop the operation of the facility or activity until proof is provided.
- Require the liability insurance policy to obligate the insurer to give the insured at least 30 days written notice before any cancellation, suspension, or nonrenewal of the policy. The insured would have to immediately notify the Commissioner upon receipt of such notice.
- Exempt from the insurance requirements zip line or challenge courses installed at a private residence not open to the public for which no fee is charged as well as those owned or operated by the State, a unit of local government or political subdivisions.¹
- Require the Commissioner to adopt rules.

¹ Added by the PCS. Article 31 of Chapter 143 covers tort claims against State departments and agencies. The purchase of insurance would remove the State from the process set forth in this Article and from the State's obligation for payment under this Article.

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EFFECTIVE DATE: The rule making authority becomes effective when the act becomes law. The remainder of this act becomes effective June 1, 2018.

BACKGROUND: S.L. 2015-152 directed the Department of Labor to conduct an extensive study of zip line operations in North Carolina, including the need for regulation of this industry. The impetus for the study was the fatality of a child as a result of a fall from a zip line at a youth camp in western North Carolina. Although the legislation required only a study of zip line operations, the report includes a review and assessment of the broader industry that includes zip lines.

The Department submitted its report to the Legislative Research Commission's Committee on Regulatory and Rate Issues in Insurance. A copy of the Committee's report can be found in the Legislative Library. The Report concluded the following:

- Participation on a zip line or a challenge course is a sport, not an amusement. The industry should not be regulated as an amusement device.
- Participation assumes an inherent risk.
- Though no database exists to account for all accidents in this industry, anecdotal evidence suggests that most incidents are caused by human error, not equipment failure.
- Existing regulatory mechanisms provide a layer of safety:
 - The design of the structures must be approved by a professional engineer.²
 - Insurance companies require not only proof of annual inspection, but also affirmation that any deficiencies found by the inspection have been corrected.
- Many states that regulate the industry only require a "paperwork inspection", meaning the state requires operators to submit proof of insurance. Since insurance companies already require inspection paperwork, an additional State requirement would be duplicative and would not create a safer industry.

Kristen Harris, counsel to Senate Commerce and Insurance, substantially contributed to this summary.

² G.S. 89C-3(6).