

| <b>State</b> | <b>Statute</b>                                     | <b>Enforcement/Law</b>  |
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| Alabama      | § 12-21-109  | "if the parties, knowingly, evenhandedly, and for valid consideration, intelligently enter into an agreement whereby one party agrees to indemnify the other, including indemnity against the indemnities' own wrongs, if expressed in clear and unequivocal language, then such agreements will be upheld.. ."   |
| Alaska       | Skiing: § 5.45.120<br>parental waiver: § 09.65.292 | Liability waivers must reflect a "conspicuous and unequivocally expressed" intent to release from liability (Kissick v Schmierer, 816 P.2d 188, 191). For adults, cases expresses a willingness to find liability waivers do not bar plaintiffs' claims.  |
| Arizona      |  | The defense of assumption of risk shall, in all cases whatsoever, be a question of fact and shall, at all times, be left to the jury" (210 Ariz. 403, 11 P.3d 1003). Must contain specific, prominent waiver language and be explicitly entitled "release of liability. Waivers are disfavored in AZ  |
| Arkansas     |  | Exculpatory Clauses are strictly construed against the party relying on them. The exculpatory clause must clearly and specifically set out the negligent liability to be avoided" (77 S.W.3d 551). The factors to be considered when evaluating enforcement of exculpatory clause include the following: 1) whether the party is knowledgeable of the potential liability they are releasing; 2) whether the party benefits from the activities surrounding the transaction; and 3) whether the contract is fairly entered into (139 S.W.3d 797)  |
| California   | California Civil Code 1668                         | All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law. (1668). This is generally NOT applicable to recreational releases and waivers. No specific language is required. Pursuant to California case law, waivers and releases, given in the context of recreational activities are enforceable. There are two exceptions to this rule; 1) waiver release will not bar a claim of gross negligence; 2) waiver and release will not bar a cause of negligence per se based upon violation of statute. |
| Colorado     | § 13-21-199: Equine<br>§ 33-44-113: Skiing         | Examined by 4 factors; 1) existence of a duty to the public, 2) nature of the service performed, 3) whether the contract was fairly entered into, and 4) whether the intention of the parties is expressed in clear and unambiguous language  |
| Connecticut  |  | Even if a waiver is clearly and unambiguously drafted, the trend is to rule that the waiver is void as against public policy where the defendant is an entity that operates facilities that provide popular recreational or sporting activities to the general public. Recent cases indicate a reluctance to uphold a waiver of liability, especially in the area of recreational and sporting activities. Courts have recently voided liability waivers involving claims for personal injuries against a health club   |

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| Delaware | Equine: § 8140<br>Comparative Negligence: § 8132<br>Uncons.Contract/Clause: § 2-302(1)   | Recognize the validity if a general release of a party from liability. Contractual provisions which purport to relieve a party from liability for matters resulting from its own negligence are not favored. For such a provision to be upheld, it must be "crystal clear" in its language evincing the clear intent of the parties to absolve the protected party of liability created by that party's own actions.  |
| Florida  | § 744.301(a) Parental waiver<br>§ 549.09 Closed course motorsport facilities   | Exculpatory are valid and enforceable where the intention is made clear an unequivocal and are entered between persons of equal bargaining power. Courts are split regarding specific language must be apparent in pre-injury releases. Exculpatory provisions which attempt to relieve a party of his or her own negligence are generally looked upon with disfavor  |
| Georgia  | § 4-12-1 Equine and llama<br>§ 51-1-43 Roller Skating<br>§ 43-43A-1 Snow Skiing  | General rule is that a contractual liability for simple negligence is valid, the exception being where the waiver violates public policy.<br><br>Courts have historically honored valid pre-injury waivers and releases as being within the rights of competent parties operating under no disabilities to contract as they see fit   |
| Hawaii   | § 663-10.95 Motorsport facilities<br>§ 663-1.54 Recreational activity liability  | A recreational participant may waive the recreational provider's liability for damages and injuries resulting from the inherent risks associated with the recreational activity. However § 663-1.54 specifically states that an inherent risk does not result from the "negligence, gross negligence, or wanton acts or omissions" of the owner/operator. <b>§ 663-1.54(b)</b> : No waiver shall be valid unless:<br>1) The owner or operator first provides full disclosure of the inherent risks associated with the recreational activity; and 2) the owner or operator takes reasonable steps to ensure that each patron is physically able to participate in the activity and is given the necessary instruction to participate in the activity safely |
| Idaho    | Public Duty: §§ 6-1101<br>Skiing: §§ 36-1691<br>Rec. use: §§ 6-1801<br>Equine: §§ 6-1201<br>Outfitter/Guide liability: §§ 29-101 | Look with disfavor on attempts to avoid liability and construe such provisions strictly against the person relying on them, especially when that person is the preparer of the documents. Exculpatory releases must speak clearly and directly to the conduct of the defendant which caused the harm at issue. Two exceptions to the general notion that pre-injury releases exempting one party from liability for its negligent acts are valid and enforceable. These are when 1) one party is at an obvious bargaining disadvantage, or 2) a public duty is involved.  |
| Illinois | Evans v Lima Lima Flight Team, 373 Ill. App. 3d 407 (2007)   | A liability waiver and release will be enforced if: 1) it clearly spells out the intention of the parties, 2) there is nothing in the social relationship between the parties militating against enforcement, and 3) it is not against public policy. The language of the waiver must clearly show the intent of the parties. It must contain clear, explicit, and unequivocal language referencing the type of activity, circumstance, or situation that it covers and for what the plaintiff agrees to release the defendant from a duty of care.   |

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| Indiana   | Ind. Code §43-28-3-2<br>Liability release to minors for auto/motorcycle racing       | In order to exempt a defendant from a negligence claim the waiver must specifically refer to negligence. Indiana courts have held that such waivers are not against public policy. Courts have not shown reluctance to uphold. Courts have held that parties can refer to negligence without mentioning the word negligence, but are more likely to find for defendants if they do mention it. As long as it makes clear that the person signing the release is holding the defendant harmless for defendant's own acts, courts usually find the waiver sufficient.   |
| Iowa      | Iowa Code §668.7(2010)   | "A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable discharges that person from all liability for contribution, but does not discharge any other persons liable upon the same claim unless it so provides". Iowa courts focus on the language of the waiver/release. Where the language is straightforward and specifically states the rights being waived and delineates the potential tortfeasor specifically, court will uphold. A release should refer to a person "by name or with such descriptive particularity that identity/connection with the tortious event is not in doubt"<br><br>Aid Ins. Co. v. Davis County 426 N.W.2d 631, 633 |
| Kansas    | Equine Liability: § 60-4001 to 4004  | The intention to waive liability for negligence must be expressed un clear and unequivocal language. An agreement need not contain specific or express language covering each act of possible negligence. General language or all-inclusive language exempting a party from liability is insufficient. "Parties cannot stipulate for the protection against liability for negligence in the performance of a legal duty or a duty of public service, or where the public interest is involved or performance thereof". Voluntary sporting competitions are not matters of important public interest.  |
| Kentucky  | Rec. use: § 411.190<br>Cave protection: § 433.833<br>Farm animal activity: §247.4027 | The only statute that addresses specific language is §247.4027. <b>57A Am. Jur. Negligence §53</b><br>a. It must explicitly express an intention to exonerate by using the negligence; or<br>b. It must clearly and specifically indicate an intent to release a party from liability for a personal injury caused by that party's own conduct; or<br>c. Protection against negligence is the only reasonable construction of the contract language; or<br>d. The hazard experienced was clearly within the contemplation of the provision  |
| Louisiana | La.C.C. Art. 2004  | Releases are not enforceable. Any clause is therefore null that, in advance, excludes or limits the liability of one party for causing physical injury to the other party.  |
| Maine     |  | A release must spell out with the greatest particularity the intentions of the parties. Such releases are construed strictly against the party seeking immunity from liability. Gross negligence or willful and wanton misconduct generally renders exculpatory provisions void. Void if against public policy.   |
| Maryland  |  | Exculpatory clauses are usually valid, with 3 exceptions; (1) When a party to a contract attempts to avoid liability for intentional conduct or harm caused by reckless, wanton, or gross behavior; (2) when a contract results from grossly unequal bargaining power; (3) when the transaction is one adversely  |

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|               |  | affecting the public interest. Exception 3 includes the performance of public service obligation, e.g., public utilities, common carriers, innkeepers, and public warehousemen. It also includes those transactions, not readily susceptible to definition or broad categorization, that are so important to the public good that an exculpatory clause would be "patently offensive" such that "the common sense of the entire community would pronounce it invalid". No specific language required.   |
| Massachusetts | Health club: G.L. c. 93, §80; §85<br>Equine activities: G.L. c. 128, §2D | A waiver of liability is generally valid. No specific language required, but any doubts about the interpretation of a waiver or release may be resolved in the plaintiff's favor. A prospective release which purports to relieve a party from tort liability for gross negligence or reckless or intentional conduct is against public policy and not enforceable.   |
| Michigan      |  | There is no specific language that courts require to be included in the release. Turns on the intent of the parties. A release must be written with sufficient clarity to put a person on notice that any right to bring a claim for liability of injury or damages arising out of participation in the event is being waived.  |
| Minnesota     | § 604.055  | An agreement between parties for a consumer service, including a recreational activity, that purports to release, limit, or waive the liability of one party for damage, injuries, or death resulting from conduct that constitutes greater than ordinary negligence is against public policy and void and unenforceable.   |
| Mississippi   |  | Courts do not require the agreement to contain specific language, but interpret release agreements under the rule that every person must be presumed to know the law, and in the absence of some misrepresentation, or illegal concealment of facts, the person must abide the consequences of his contracts and actions. Clauses that limit liability are given strict scrutiny, and a release must be fairly and honestly negotiated and understood by both parties. If the terms of the release are ambiguous, the court should not construe it without the aid of extrinsic evidence of intent.   |
| Missouri      |  | Courts have long held that such releases are valid and enforceable. Courts will only enforce such language where it is clear, conspicuous, and understandable, particularly where the parties are in unequal bargaining positions. In consumer contracts, courts have held that the words "negligence" or "fault" or their equivalents must be used in the release language. While "negligence" or "fault" are required, they may not be sufficient alone to render release language enforceable. Liability for assault may not be released in advance, therefore "any and all" cannot apply.   |
| Montana       |  | Montana law explicitly prohibits provisions that attempt to exonerate liability arising out of actions that violate the law, whether willful or negligent. Any waiver by which an entity seeks to contractually exculpate itself from liability arising out of negligent violations of legal duties is invalid and unenforceable. There are some statutes that limit some recreation providers' liability by requiring that participants assume the inherent risks in the particular recreation activity. Nevertheless, the statutes do not preclude actions based on negligence (or willful, wanton, or intentional conduct) if damages are not the result of inherent risk. |

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| Nebraska       |  | The language of a particular exculpatory clause in a contract must be clear and unambiguous. Release should include language that the participant had a reasonable opportunity to and indeed read the agreement. Nebraska is not reluctant to uphold waivers that comply with case-law requirements and relevant statutory restrictions.   |
| Nevada         | Skiing: § 455A.010-.190<br>Amusement rides: § 455B.010-100, § 41.141                 | When addressing a liability waiver, it is necessary to evaluate all the circumstances as they existed at the time the release was obtained, including/not limited to the nature and extent of injuries, the haste or lack thereof with which the release was obtained, and the understandings and expectations of the parties at the time of the signing   |
| New Hampshire  |  | If the release raises any doubt as to whether the party agreed to assume the risk, it will not be enforced. Risk must be clearly and specifically indicated the intent to release liability for personal injury.   |
| New Jersey     | Skiing: 5:13-3<br>Roller skating: 5:14-1<br>Equine: 5:15-1                           | Releases are enforceable. Parents cannot execute a release for a minor.  |
| New Mexico     | Equine: §42-13-1-5<br>Ski safety: §24-15-1 -14                                       | Appellate courts have generally held that agreements that exculpate one part from liability for negligence will be enforced, unless they are "violative of law or contrary to some rule of public policy". In determining the validity of a liability release for personal injury, it is important that the release contain specific language informing the patron of the types of risks be assumed. In addition to the language of the release itself, courts look to the placement of the language within the document to determine whether it is conspicuous enough. Courts also examine whether the defendant made some effort to bring the release to the plaintiff's attention before the plaintiff signed it.   |
| New York       | New York General Obligations Law §5-236  | Every...agreement...in connection with, or collateral to, any...ticket of admission...entered into between the owner or operator of any...place of amusement or recreation, or similar establishment and the user of such facilities, pursuant to which such owner or operator received a fee or other compensation for the use of such facilities, which exempts the said owner or operator from liability for damages caused by or resulting from the negligence of the owner, operator or person in charge of such establishment, or their agents, servants or employees, shall be deemed void against public policy and wholly enforceable." Generally, frown upon contracts intended to exculpate a party from the consequences of his own negligence, but there are some exceptions. If the activity is instructional and/or where there is no fee or other compensation for the use of a facility, a pre-accident waiver/release may be enforceable. Focus is on whether the facility is instructional or recreational. |
| North Carolina | Skiing: § 99c-2(c)(7)<br>Motorcycle: § 115D-72<br>Roller Skating: § 99E-10 to 99E-14 | A party's failure to actually read a contract before signing it does not make the agreement unenforceable unless there is some evidence of mutual mistake, fraud or oppression. Parties are free to allocate the risk of injury by means of exculpatory contracts, unless the subject matter of such contracts affects a public interest. "A party cannot protect himself by contract[ing] against liability for negligence in the   |

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|              | Equine: § 99E-1 to 3                               | performance of a duty of public service, or where a public duty is owed, or public interest in involved, or where public interest requires the performance of a private duty"  |
| North Dakota | Skiing: NDCC § 53-09-01<br>Equine: NDCC § 53-10-01 | Parties may be bound by clear and unambiguous language evidencing an intent to extinguish liability. Law does not favor contracts exonerating parties from liability for their conduct so pre-injury releases are strictly construed against the benefitted party. Pre-injury release should be clear and unambiguous. Should include separate and distinct assumption of risk and waiver clause, each containing expressed meaning and consequences. Risk clause should require participant to assume full risk of injury and damages directly or indirectly result from participation. Waiver clause should require to waiver and relinquish all claims for injury/damages incurred on account of participation. |
| Ohio         |  | Exculpatory clause are enforceable. Participants in sporting/recreational activities are free to contract to relieve the proprietor of responsibility for proprietor's negligence, but not willful or wanton conduct.<br><br>Releases from liability for future tortious conduct are generally not favored by the law and are narrowly construed. If intent of parties is stated in clear and unambiguous terms, courts will routinely apply such releases to bar future tort liability. If the language is ambiguous or too general, courts have held that parties intent is a factual matter for the jury.   |
| Oklahoma     | Equine: Okla. Stat. tit. 76, § 50.1 to 50.4        | Contractual exculpatory clause for personal injury is valid and enforceable only if<br>1) it evinces a clear and unambiguous intent to exonerate the would be defendant from liability;<br>2) when the contract was executed there was no vast difference in bargaining power between the parties;<br>3) It is not injurious to public health, public morals or confidence in administration of the law; and<br>4) It does not so undermine the security of individual rights vis-a-vis personal safety or private property as to violate public policy<br><br>Under Okla. Const. art. 23, § 6 a court can take the issue of assumption of risk away from the jury.  |
| Oregon       | Skiing: § 30.970-990<br>Equine: § 30.687-97        | Courts have upheld releases for various activities not regulated by statutes. Agreement limiting liability is governed by principles of contract law and will be enforced in the absence of some consideration of public policy derived from the nature of the subject of agreement or a determination that the contract was adhesiory . Liability release will be upheld when it is part of a bargain in fact between business concerns that have dealt with each other at arm's length in a commercial setting. An attempt to escape liability for more than ordinary negligence renders the entire release clause invalid. Parents cannot waiver minors' prospective claims.                                    |
| Pennsylvania |  | An exculpatory clause will be deemed valid if it meets all of the following:<br>1) The clause must not contravene public policy;<br>2) The contract must be between person relating entirely to their own private affairs;   |

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|                |  | <p>3) Each party must be a free bargaining agent to the agreement so that the contract is not one of adhesion</p> <p>Once it is determined valid, it must meet these requirements to be enforceable:</p> <ol style="list-style-type: none"> <li>1) Contract language must be construed strictly</li> <li>2) Contract must state the intentions of the parties with greatest particularity, beyond doubt by expressed stipulation</li> <li>3) Language must be construed in cases of ambiguity against the party seek immunity from liability</li> <li>4) Burden of establishing immunity is upon the party invoking protection under the clause</li> </ol> |
| Rhode Island   | Non-profit sponsors: § 7-6-9(b)  | Public policy is not violated when individuals limit liability for their own negligence through exculpatory indemnification clause. However, a contract will not be construed to indemnify the indemnitee against losses resulting from her own negligent acts unless the parties' intention to hold harmless is clearly and unequivocally expressed in the contracts  |
| South Carolina | Ice skating: § 52-21-10-60<br>Equine: § 47-9-710-730   | Contracts that seek to exculpate a party from liability for the party's own negligence are not favored by law. Exculpatory clause will never be construed to exempt a part from liability for his own negligence "in the absence of explicit language clearly indicating that such was the intent of the parties"  |
| South Dakota   | Recr Use: § 20-9-11<br>Equine: SDCL § 42-11-1  | <p>A participant may contractually agree to assume risks that are part and parcel of the recreational activity, absent fraud, misrepresentation, or other wrongful act by another contracting party. Two general trends:</p> <ol style="list-style-type: none"> <li>1) Anticipatory, pre-injury releases are much more likely to be deemed valid and enforceable when they are written on a separate document and not embedded in an application or sign-up sheet</li> <li>2) The more inherently dangerous or risky the recreational activity, the more likely an anticipatory release will be held valid</li> </ol>                                      |
| Tennessee      | Skiing: 68-114-101-107<br>Health club: 47-18-303<br>Equine: 44-20-101-105<br>Auto: § 55-22-105 | Parties may contract so as to release one of the parties from liability for damages resulting from he's negligence. An exculpatory clause is not void merely because defendants failed to incorporate certain statutorily-required language in an exact and verbatim manner. Courts have upheld liability waivers in numerous cases involving recreational activities. Failure of a party to read a release and waiver before signing it in the absence of fraud or duress does not affect its validity.   |
| Texas          |  | Party may exempt itself from liability based on its own negligence in a properly drafted release. A release is valid and enforceable unless it is contrary to public policy. Fair notice requirement for a valid and enforceable release. Must consist of expressed negligence doctrine and the conspicuous requirement. Expressed negligence doctrine requires the intent of the parties be specifically stated within the four corners of the document. Conspicuous requirement requires the use of clear and unequivocal language   |

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|               |   | in releases and indemnity agreements to ensure the party assuming the risk is given fair notice of the risk shifting provisions in the contract.   |
| Utah          | Skiing: § 78B-4-401<br>Equine: § 78B-4-201<br>Rec Activities: § 78B-4-509 | People may contract away their rights to recover in tort damages caused by ordinary negligence, but not from harm willfully inflicted or caused by gross or wanton negligence. To be enforceable, the intent of a release must be communicated in clear, unequivocal and unambiguous language. As a general rule, recreation activities do not constitute a public interest; therefore, pre-injury releases cannot be invalidated under public interest exception. Utah courts will uphold an adult's pre-injury release of an ordinary negligence claim as long as the release is clear, unequivocal, and unambiguous; is not against public policy; or does not fall within a public interest.   |
| Vermont       |   | Strictly construes an exculpatory agreement against the party relying on it. And considers whether a release is void as contrary to public policy  |
| Virginia      |   | A contract or document containing language where a party releases himself or his servants from liability due to his own negligence is void as against public policy, but can be enforced if it does not involve a public utility or quasi-governmental situation. The courts will void any pre-injury release if it extinguishes a rights of action prior to the misconduct taking place. Indemnity provisions that do not extinguish the right of action but merely transfer the risk of loss are valid. Courts are reluctant to uphold pre-accident waivers. If a party signs a post-accident release, statute 8.01-425.1 provides that any person who, without the assistance of counsel, settles his personal injury claim within 30 days of the accident may rescind the settlement before midnight of the third business day after the release was executed. Additionally, any release signed within 30 days of an accident must conspicuously state the party's right to rescind. |
| Washington    | Skiing: § 9A.45.030<br>Equine: § 4.24.530-540                             | A liability waiver is unenforceable if <ol style="list-style-type: none"> <li>1. It violates public policy: if it has a tendency to be against the public good, or to be injurious to the public</li> <li>2. The negligent act falls greatly below the legal standard for protection of others: Reluctant to allow those who are charged with a public duty to free themselves of that obligation by contract</li> <li>3. It is inconspicuous: A person who signs without reading an instrument whose meaning is plain and unambiguous "is nevertheless bound by its terms so long as there was ample opportunity to examine the contract in as great a detail as he cared, and he failed to do so for his own personal reasons</li> </ol> <p>Washington Courts seem quite willing to uphold express releases of liability for adults</p>  |
| West Virginia |   | Generally will enforce pre-injury releases subject to some exceptions. A general clause in a pre-injury exculpatory agreement or anticipatory release purporting to exempt a defendant from all liability for any future loss or damage will not be construed to include damage resulting from the defendant's   |

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|           |   | <p>intentional, reckless misconduct or gross negligence unless waiver and the circumstances surrounding the waiver clearly indicate that such was the plaintiff's intention. Pre-accident waivers are not enforceable when the defendant violates a safety statute enacted for the purpose of protecting the public. Language does not need to explicitly use the words negligence or negligent acts or omissions, or other magic words if the contract as a whole and the circumstances at the time of its execution indicate that both parties intended that waiver. Courts will consider waivers but will be very reluctant to uphold pre-accident waivers in cases involving an alleged violation of safety statute/regulation or allegations of gross negligence. Does recognize the affirmative defense of assumption of risk.</p>  |
| Wisconsin | Rec. Use Stat: § 895.525  | <p>Exculpatory clauses are not invalid per se, however such provisions will be construed strictly against the party seeking to rely on it. Waiver may be found unenforceable if the exculpatory language is overly broad and all inclusive. Exculpatory clauses will likely be found to violate public policy if they are so broad that they would absolve a party from any injury to the signor for any reason. Waiver must clearly unambiguously, and unmistakably inform the signer of what he/she is waiving. Form viewed in it's entirety must alert the signor to the nature and significance of doc. More enforceable if exculpatory clauses are on a separate form and conspicuously labeled as to put the person on notice that they are signing waiver. Wisconsin courts will clearly review waivers and releases with great scrutiny.</p>  |
| Wyoming   | <p>Rodeos: W.S. §1-1-118(a)<br/> Minors: W.S. § 1-1-118(b)<br/> Skiing: W.S. § 1-1-123(d)<br/> RSA: W.S. § 1-1-2229(a)(iii)</p> | <p>Liability waivers are governed by 4 factors:</p> <ol style="list-style-type: none"> <li>1. Existence of a duty to the public</li> <li>2. Nature of the service performed</li> <li>3. Whether the contract was fairly enter into</li> <li>4. Whether the intention of parties is expressed in clear and unambiguous language</li> </ol> <p>Private recreational businesses generally do not qualify as services demanding a special duty to public, nor are their services of a special, highly necessary nature. No special terminology is required, and the release need not mention the word negligence. Courts are not reluctant to uphold waivers that fulfil the case-law requirements. Recreational Safety Act is unique because it concerns inherent risks to ANY sport or recreational opportunity. Courts have held that the intent behind this Act was not preclude parties from suing for a providers negligence, but rather merely to stop people from suing for those risks that were inherent to a sport</p> |