



## **Florida's New Law On Child Safety Waivers**

After numerous attempts to limit their liability from injuries that occur, commercial businesses aimed at providing entertainment for children have, in-part, succeeded. Fortunately, thanks to the efforts by the Florida Justice Association, the final legislation is far less onerous than the bill that was originally filed. This compromise legislation which was passed during the most recent session of the Florida Legislature authorizes natural guardians of minors to waive claims, in advance, for injuries or death.

Prior to this new bill, the Florida Supreme Court held that a pre-injury release executed by a parent on behalf of a minor child was unenforceable against a minor or the minor's estate in a tort action arising from injuries from participation in a commercial activity. Specifically, this new bill allows natural guardians of minors to waive, in advance, claims for injuries or death arising from risks inherent in commercial activities.

The new law provides that these "inherent risks" must be defined and include but are not limited to any dangers or conditions known or unknown which are characteristic of the activity. In addition, these risks include any negligent act that the minor child may engage in, but fortunately does not protect the negligent acts of the owners, affiliates, employees or agents of these facilities. The release must be printed in a minimum of 8 point type or larger, while the section defining the inherent risks, must be at least 5 points larger, in an attempt to assure that guardians can clearly distinguish this section from all others.

To rebut the presumption that the waiver is valid, the claimant must demonstrate by a preponderance of the evidence that the waiver does not comply with the requirements of the law and must show that the cause of the injury was not an inherent risk of the activity. As a result of this new law, parents will need to be aware that they may have no recourse for any injury their child suffers as the result of an inherently dangerous activity.

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*The Coral Springs-based, Weinstein Law Firm was established by managing partner and civil justice attorney, Andrew Weinstein more than 10 years ago. The firm represents individuals and families injured in automobile and premises liability accidents, as well as those harmed by dangerous and defective products throughout the State of Florida. In addition, the firm represents Florida health care professionals in a wide range of legal issues, which include Personal Injury Protection (PIP) and insurance claims. More information can be found at [www.weinstein-law.com](http://www.weinstein-law.com) or by calling (954) 757-7500.*