

State of Illinois  
OFFICE OF THE GOVERNOR  
Springfield, Illinois 62706

George H. Ryan  
GOVERNOR

August 23, 2002

To the Honorable Members of  
The Illinois Senate  
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex rel. Klinger v. Howlett, 50 Ill.2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill.2d 387 (1979), people ex rel. City of Canton v. Crouch, 79 Ill.2d 356 (1980), and County of Kane v. Carlson, 116 Ill.2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return Senate Bill 2155 entitled "AN ACT in relation to civil liabilities," with my specific recommendations for change.

Senate Bill 2155 provides the owner or operator of off-road riding facilities not only civil immunity, but criminal immunity as well, from legal suits brought on the basis of noise or sound emissions. Senate Bill 2155 provides these immunities to (i) the facilities in existence on January 1, 2002, and (ii) the facilities in operation after January 1, 2002, that meet at least one additional location, zoning, or operation requirement. Senate Bill 2155 also provides that the civil immunity for facilities in existence after January 1, 2002, does not extend to willful and wanton misconduct outside the normal use of the facility.

Although existing off-road riding facilities may merit some protections against nuisance suits of persons who choose to locate next to one of these current facilities, Senate Bill 2155 proposes to extend these protections to the opposite scenario where new facilities may seek to locate near residential areas. Senate Bill 2155 also may inadvertently affect pending suits concerning these facilities. Therefore, my amendatory changes delete the protections for facilities that open after January 1, 2002, and provide that the immunity protections only apply to causes of action accruing on or after the effective date of this bill.

In addition, Senate Bill 2155 indeterminately provides criminal immunity to these facilities that the State does not regulate for noise pollution and waives civil immunity only for willful and wanton misconduct "outside" the normal use of an existing facility. Thus, the amendatory changes delete the criminal immunity provisions and waive immunity for any willful and wanton misconduct occurring in the operation of the facility.

For these reasons, I hereby return Senate Bill 2155 with the following recommendations for change:

on page 1, by replacing lines 21 through 27 with the following:

"(b) An owner or operator of an off-road riding facility in existence on January 1, 2002 is not subject to any action for public or private nuisance or trespass arising out of or as a consequence of noise or sound emissions resulting from the normal use of the off-road riding facility. Further, no court in this State may enjoin"; and

on page 1, line 28, by replacing "a" with "an"; and  
on page 1, by replacing line 31 with the following:

"(c) The immunity in this Section does not apply if there is willful or wanton misconduct in the operation of the off-road riding facility. This Section applies only to causes of action accruing on or after the effective date of this amendatory Act of the 92nd General Assembly."; and

On page 2, by deleting lines 1 through 23.

With these changes, Senate Bill 2155 will have my approval. I respectfully request your concurrence.

Sincerely,  
George H. Ryan  
GOVERNOR