

Date of Hearing: May 10, 2017

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 295 (Eggman) – As Amended May 1, 2017

SUBJECT: Skydiving or sport parachuting operations

SUMMARY: Requires the owners and operators of a skydiving or sport parachuting operation to have a duty to ensure that the parachutist in command of a tandem jump and the parachute rigger responsible for packing the parachute are in compliance with all federal laws related to parachute safety and certification, as specified.

EXISTING LAW:

- 1) Establishes the State Aeronautics Act, which governs various matters relative to aviation in the state, including, fostering and promoting safety in aeronautics and establishing regulations that are essential and clearly within the scope of the authority granted to the Department of Transportation by the Legislature, in order for a person to engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others. (Public Utilities Code (PUC) Section 21001 et seq.)
- 2) Defines “aeronautics” to mean the science and art of flight, including transportation by aircraft, the operation, construction, repair, or maintenance of aircraft and aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes, and the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities. (PUC Section 21011)
- 3) Specifies that any person violating the provision of the States Aeronautics Act, as specified, is punishable by a fine of not more than \$1,000 or by imprisonment of not more than six months, or both. (PUC Section 21019)
- 4) Specifies that it is unlawful for any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, to operate an aircraft in the air, or on the ground or water, or to engage in parachuting for sport, as specified. (PUC Section 21407.1)
- 5) Requires any person convicted of operating an aircraft in the air, or on the ground or water, or to engage in parachuting for sport under the influence of an alcoholic beverage, as specified, to be punished upon a first conviction by imprisonment in the county jail for not less than 30 days no more than six months or by a fine of not less than \$250 nor more than \$1,000 or by both that fine and imprisonment. (PUC Section 21407.6)

FISCAL EFFECT: Unknown. This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Authors Statement:** According to the author, “In August 2016, [a family] went to the Skydive Lodi Parachute Center [for] a tandem jump with [an] instructor. Under conditions

that are still being investigated, [a] parachute did not open, and both [the jumper] and his instructor [...] were killed. It was later discovered that the instructor was not properly certified. These were the 12th and 13th deaths recorded at the site since 2000; there have been many other incidents that were not fatal. Skydiving and parachuting is an admittedly dangerous sport that entails risk. Federal regulation of aircraft, drop-zones, and instructors is meant to minimize the risk to those who choose to jump out of a plane, who places a great deal of trust in their instructors and the sites where they operate. While [the United States Parachute Association (USPA)] has taken steps to address the improper training, the fact still remains that the tandem instructor in this most recent incident was not certified, and the operator should have the responsibility to the public for ensuring that instructors are qualified. Though jumpers sign waivers, a requirement in state code would formally establish this duty.”

- 2) **Background:** Sports parachuting, or skydiving, is a recreational activity and is widely considered an extreme sport due to its high risks. In a tandem jump, a student’s harness is clipped to that of a tandem jump instructor, and the two share the same parachute. Parachutes are prepared by parachute riggers, who are responsible for packing, maintaining, or altering any type of parachute.

Parachuting is regulated by the Federal Aviation Administration (FAA) under the United States Department of Transportation. The FAA prescribes the Federal Aviation Regulations (FARs), which govern all aviation activities in the United States, including safety procedures for both parachute tandem jump instructors and parachute riggers. The FAA relies on the self-regulation of the participants through the guidelines and recommendations of USPA. The USPA represents more than 43,000 licensed skydivers and nearly 300 skydiving clubs and businesses, and is approved by the FAA to issue internationally recognized parachuting licenses.

In California, the State Aeronautics Act governs various matters related to aviation in the state. The Department of Transportation’s Division of Aeronautics is tasked with issuing permits and annually inspects hospital heliports and public-use airports; as well as making recommendations regarding proposed school sites within two miles of an airport runway; and authorizes helicopter landing sites at or near schools. In addition, the Division of Aeronautics administers noise regulation and land use planning laws around airports and other mitigating measures to lessen aircraft noise, air pollution, and other impacts caused by aviation.

- 3) **Safety Regulations and Certification Process:** There are different certification processes and safety regulations for tandem jump instructors and parachute riggers. Tandem jump instructors are certified by USPA or a manufacturer of tandem jump equipment, while a parachute rigger is certified by FAA.

Tandem Jump Instructors: To become a certified tandem jump instructor, federal regulations require three years of experience in parachuting, proof of completing a minimum of 500 skydives, a master parachute license issued by an organization recognized by FAA, such as USPA, and a successfully completion of a tandem instructor course given by the manufacturer of the tandem parachute system. Under the USPA certification process, an individual has to receive training by a certified USPA instructor-examiner and successfully completed a series of courses that include oral and written exams, and practice skydives.

Federal safety regulations require the parachutist in command of a tandem jump to brief the passenger parachutist before boarding the aircraft. The briefing must include emergency procedures and landing, and uses of the harness position. Federal law prohibits a person from performing a tandem jump unless:

- The main parachute has been packed by a certified parachute rigger, the parachutist in command making the next jump with that parachute, or a person under the direct supervision of a certificated parachute rigger;
- The reserve parachute has been packed by a certificated parachute rigger;
- The tandem parachute system contains an operational automatic aviation device for the reserve parachute;
- The passenger parachutist is provided with a manual main parachute aviation device and instructed on how to use it, if it is required by the owner/operator; and,
- The main parachute is equipped with a single-point release system and the reserve parachute meets certain specifications.

Parachute Riggers: The FAA certification process for parachute rigger includes written, oral, and practical tests on a rigger's mechanical skills and parachute packing skills. According to federal safety regulations, parachute riggers are prohibited to pack, maintain, or supervise the packing of a parachute unless they have specified facilities and equipment available. In addition, no certified parachute rigger may pack, maintain, or alter any parachute unless they are rated for that type of parachute, and no parachute rigger may pack a parachute that is not safe for emergency use and has not been thoroughly dried and aired. Furthermore, no parachute rigger may pack, maintain, or alter a parachute in any manner that deviates from procedures approved by the Administrator or the manufacturer of the parachute; or exercise the privileges of their certificate and type rating unless they understand the current manufacturer's instructions for the operation involved.

- 4) **Skydive Lodi Parachute Center:** On August 6, 2016, a tandem jump instructor and a jumper at the Skydive Lodi Parachute Center fatally crashed to the ground after the instructor's main and backup parachutes failed to open during the tandem jump. An investigation conducted by FAA and USPA determined that the tandem jump instructor did not follow proper procedures in handling the parachute equipment during the jump and was not certified. The tandem jump instructor had taken a course from an instructor-examiner who had suspended credentials. In addition, the instructor-examiner taught abbreviated courses and incorrect procedures on handling parachute equipment. Furthermore, the instructor-examiner failed to submit the student's paperwork to USPA for official approval for certification. According to USPA, the owner of the Skydive Lodi Parachute Center was well aware that the instructor was not certified and had been trained by an instructor-examiner whose credentials had been suspended. The FAA is moving forward with enforcement action against the operator and the instructor-examiner, and the United States Department of Transportation is opening a criminal investigation.

This bill requires the owners and operators of a skydiving or sport parachuting operation to have a duty to ensure that the parachutist in command of a tandem jump and the parachute

rigger responsible for packing the parachute are in compliance with all federal laws relating to parachute safety and certification. It is unclear what, if any, federal or state penalty mechanisms are in place to ensure enforcement or verification of the provisions of the bill by the owners and operators of skydiving or parachuting operation.

- 5) **Arguments in Support:** According to the Consumer Attorneys of California, “Instructors in tandem jumps and those who supervise the packing of parachutes are required by federal regulation to be certified by [USPA]. While USPA has taken steps to address training, the fact still remains that operators bear responsibility to the public for ensuring that instructors are qualified.”

REGISTERED SUPPORT / OPPOSITION:**Support**

Consumer Attorneys of California

Opposition

None on file.

Analysis Prepared by: Edmond Cheung & Marilyn Limon / C. & C. / (916) 319-2637