



LIABILITY ISSUES FOR BIKE SHARE PROGRAMS

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BICYCLING IS good for the individual, the community and the environment – and it's fun. Bike share programs provide the opportunity for the public to rent bicycles for transportation and exercise without the expense and responsibility of owning a bike. Bike share programs have been highly successful in Amsterdam, Paris, and now Minneapolis, along with a growing number of other cities throughout the world. Participants need little more than the desire to bike and a credit or debit card. However, bike share programs can create liability and safety issues. This fact sheet provides an overview of the liability issues that can arise and how a bike share program can minimize risk of liability. When creating a bike share program, it is important to consult with an attorney to make sure that the program meets all legal requirements.

Q How does a bike share program create liability?

A Owners and operators of bike share programs can be sued if one of its bikes is involved in an accident and people are killed or injured or there is property damage

“There are numerous ways that the owner or operator of a bike share program can limit its liability”

Q How can the owner or operator of a bike share program limit its liability?

A There are numerous ways that the owner or operator of a bike share program can limit its liability including:

- » Purchasing insurance
- » Requiring users of the program to sign waivers releasing the program from liability for injuries
- » Keeping the bikes well maintained
- » Educating users about use of the bike and providing safety training

Q Should a bike share program require users to wear helmets?

A Some bike share programs require users to wear helmets, especially in places where helmet laws are in effect. A helmet can protect against some injuries or reduce the severity of an injury caused by impact to the head. But they are not 100% effective in protecting against head injuries and offer no protection against other kinds of injuries. For these reasons a bike share program should recommend that riders wear a helmet, even if it's not required.

Q What protection does a waiver provide?

A Waivers can be a way to manage risk, but they do not completely shield the program from liability. A waiver must be carefully drafted and may not hold up in court, but signing one may discourage some people from bringing a lawsuit. For more information on waivers see the Public Health Law Center's fact sheet, *Waivers and Releases: Managing Liability Risk for Youth Recreational Activities in Minnesota*.

Q Is there any special protection for government entities that operate bike share programs?

A A city, county, town, public authority, public corporation, special district, school district, or public library that operates a bike share program has some immunity from liability for discretionary decisions.¹ Discretionary decisions are those that involve the balancing of policy, economic, political, financial, safety, or legal considerations.² Discretionary decisions that a government entity might make in connection with a bike share program include location of bike docks, maintenance schedules, and whether to require riders to wear helmets.



Q How can an organization that is not a government entity limit its liability for a bike share program?

A In addition to the precautions described above, an organization can protect itself by partnering with a government entity or non-profit organization. Such a partnership may make the program eligible for coverage under the partner's insurance policy and can spread risk among the partners. Even if a partner arrangement is unavailable, a bike share program can limit potential liability for its staff and board by incorporating as a non-profit.



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1 MINN. STAT. §§ 466.01 subd. 1 and 466.03, subd. 6.

2 See *Pletan v. Gaines*, 494 N.W.2d 38, 44 (Minn. 1992); *Malone v. Special Sch. Dist. No. 1*, No. A05-202 (Minn. Ct. App. Dec. 6, 2005); *Shedivy v. Ind. Sch. Dist. 279*, No. C2-00-84 (Minn. Ct. App. Aug. 29, 2000).