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Chairman Robert Craven, Esq.
House Judiciary Committee
Rhode Island State House

RE: H 5910 Assumption of the Risk

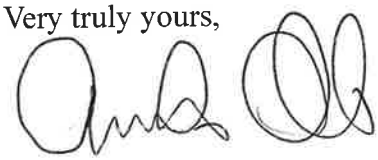
Dear Chairman Craven,

Currently Rhode Island law requires that if one "assumes the risk" of a particular harm, they are completely barred from legal recovery if they are injured during an activity involving that harm. This is an old and antiquated law. Most states around the country, as Rhode Island does for most every other legal doctrine that exists, holds that if one assumes the risk of a particular harm, that assumption of the risk is dealt with under the principles of "comparative negligence." In Rhode Island, if someone is found to be comparatively at fault for a particular harm caused, meaning they are also themselves partly to blame, the law requires that any recovery be reduced by the percentage of fault of the injured party.

This bill would add the doctrine of assumption of the risk to the current Rhode Island statute on comparative fault, RIGL 9-20-4. As an example, just a couple of years ago the Rhode Island legislature enacted a very similar statute for defects that were "open and obvious." Defects that were "open and obvious" were, until two years ago, a complete bar to recovery if someone was injured by that defect. Now the law requires an analysis under the rules of comparative fault.

Most cases decided by state supreme courts around the country have altered this antiquated law to be consistent with the principles of comparative negligence.

Very truly yours,



Anthony DeSisto, Esq.