

October 26, 2015

Matt Carlin, Commissioner  
Massachusetts Department of Public Safety  
One Ashburton Place, Room 1301  
Boston, Massachusetts 02108

RE: Regulation of Sport Climbing Facilities, 520 CMR 5.00

Dear Commissioner Carlin:

I am writing on behalf of the Climbing Wall Association (CWA) and its members in the Commonwealth of Massachusetts. I am a member of the CWA Board of Directors, and I am involved in legislative issues affecting the CWA and its members across the country. I am writing you at this time because I am unable to attend the listening session scheduled for today. I am convinced that regulating sports facilities, such as a sport climbing gym, using an amusement licensing statute, is inappropriate and unnecessary for public safety.

I begin by summarizing the differences between recreational climbing facilities or gyms and amusement venues. In the Commonwealth, as in many states, portable and inflatable climbing devices are licensed as amusements, particularly where these devices are made available as part of a larger amusement venue such as a carnival or county fair. Invariably, these devices employ passive fall protection systems such as auto-belay devices and inflatable aprons and barriers. The users of these devices, although they climb on them, are for the most part passive participants. No training is required to climb on these devices, and the user is not required to demonstrate any competency or knowledge of climbing in order to climb. Any additional special equipment such as a climbing harness is not provided by the user but by the operator. The risk of injury in the activity when operated in this fashion is allocated to the device operator and these types of operators are appropriately regulated as amusements.

Virtually all of these elements are much different in the case of a recreational climbing gym. The following are typical features of a recreational climbing facility:

- A recreational climbing facility is usually (and especially among our Association's membership) a free-standing physical fitness and training facility that is not part of any amusement venue and does not include other elements of challenge courses. Access to the climbing/instructional area is controlled by physical barriers and/or a pass system for members or "qualified" patrons.
- The inherent risks of the sport of climbing are acknowledged by the participant and operator, and expressly assumed by the participant. Release and indemnification forms for minors must be signed by a parent or guardian. The participant must take responsibility for his or her own safety. Courts nationwide have recognized the doctrine of primary assumption of the risk with respect to recreational users of climbing walls – a doctrine not generally applicable to use of amusement devices.
- A recreational climbing facility typically offers its services to members and offers instructional programs in the sport of climbing for those members and prospective members.
- Many climbing gyms also offer the amenities available in a fitness facility: cardiovascular training equipment, weight training equipment, personal training and coaching, and other facilities and services to improve fitness, strength and coordination.

- A recreational climbing facility also typically includes a “pro shop” offering rock climbing equipment and related publications for sale to patrons, such as rock shoes, carabiners, belay devices, harnesses, books, and magazines.
- A recreational climbing facility instructs and/or assesses all participants, regardless of prior experience, in basic and advanced techniques, including knot tying, belaying, lead climbing, bouldering and spotting, and grade difficulty. Participants must display competence in each critical skill area prior to being allowed full use of the facility.
- Participants must master basic skills and techniques of the sport, including movement skills, before advancing to more difficult levels.
- A recreational climbing facility sets forth its technical and operational procedures, including instructional and certification requirements for climbers and belayers, in a detailed operations manual. The staff members are responsible for explaining facility rules and “qualifying” participants in each activity, and may refuse to qualify them if they do not demonstrate complete understanding of the rules and proficiency in basic skills and techniques.
- A recreational climbing facility stations its staff in the climbing area to monitor climbers, provide general supervision, and respond to any problems. Staff members do not actively participate in climbing activities unless needed or unless a patron is not fully qualified.

As the above distinctions reflect, recreational climbing is a sport, not an amusement, with its own unique industry culture, vendors, standards, methods of construction, materials and uses.

For the reasons set forth above, I believe it is an error to include recreational climbing facilities within the regulatory ambit of amusements. The climbing walls in free-standing recreational climbing facilities are not amusement devices. Instead, they are free-standing training facilities with the single objective of developing competency in climbing. The skills attained by climbers in climbing gyms are then put to use in natural outdoor climbing settings.

I recommend that the Commonwealth no longer regulate sports facilities as amusements. The CWA has developed a robust system of standards and practices ranging from design and engineering standards to structural inspection standards to operations practices that are widely adopted across the industry.

It is our hope that the Department, under your leadership, will reconsider regulating sports facilities as amusements. I would be happy to discuss all of these issues with you in more detail at your convenience. Thank you for your thoughtful consideration of this letter.

Sincerely,



Chris O'Connell, Owner  
Boston Rock Gym

cc: William Zimmermann, CEO CWA