

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1009

By: Brown of the House

and

Burrage of the Senate

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6
7 An Act relating to torts; amending 76 O.S. 2011,
8 Section 10.1, which relates to limitation on
landowner liability; modifying definitions; and
9 providing an effective date.

10
11 AUTHOR: Add the following Senate Coauthor: Johnson (Constance)

12 AUTHOR: Add the following House Coauthor: Pittman

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
14 entire bill and insert

15 "An Act relating to torts; amending 76 O.S. 2011,
16 Section 10.1, which relates to limitation on
17 landowner liability; modifying definitions; updating
statutory references; and providing an effective
18 date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 76 O.S. 2011, Section 10.1, is
21 amended to read as follows:

22 Section 10.1. A. 1. The purpose of this section is to
23 encourage landowners to make land available to the public for
24 outdoor recreational purposes by limiting their liability to persons

1 entering upon and using such land and to third persons who may be
2 damaged by the acts or omissions of persons going upon these lands.

3 2. As used in this section:

4 a. "land" means real property, roads, water,
5 watercourses, private ways, buildings, structures, and
6 machinery or equipment when attached to realty. ~~The~~
7 ~~term "land" shall not include any land that is used~~
8 ~~primarily for farming or ranching activities or to any~~
9 ~~roads, water, watercourses, private ways, buildings,~~
10 ~~structures, and machinery or equipment when attached~~
11 ~~to realty which is used primarily for farming or~~
12 ~~ranching activities,~~

13 b. "outdoor recreational purposes" includes any of the
14 following, or any combination thereof: hunting,
15 fishing, swimming, boating, camping, picnicking,
16 hiking, pleasure driving, jogging, cycling, other
17 sporting events and activities, nature study, water
18 skiing, jet skiing, winter sports, ~~and~~ viewing or
19 enjoying historical, archaeological, scenic, or
20 scientific sites, and aviation at non-public-use
21 airports,

22 c. "owner" means the possessor of a fee interest, a
23 tenant, lessee, occupant, or person in control of the
24 land, ~~and~~

1 d. "charge" means the admission price or fee asked in
2 return for invitation or permission to enter or go
3 upon the land. The term "charge" shall not include:
4 (1) a license or permit fee imposed by a governmental
5 entity for the purpose of regulating the use of
6 land, a water or park area, or lake reservation
7 ~~and shall not include,~~
8 (2) hunting, fishing, boating, and other license and
9 permit fees,
10 (3) hunting or fishing leases, or
11 (4) donations made at fly-ins at non-public-use
12 airports, and

13 e. "non-public-use airport" means an airport that is
14 primarily used by the owner with access to the public
15 as permitted by the owner.

16 B. An owner who provides the public with land for outdoor
17 recreational purposes owes no duty of care to keep the land safe for
18 entry or use by others, or to give warning to persons entering or
19 using the land of any hazardous conditions, structures, or
20 activities.

21 C. 1. Except as otherwise provided by this section, an owner
22 who provides the public with land for outdoor recreational purposes
23 shall not:

- 1 a. be presumed to extend any assurance that the land is
2 safe for any purpose,
3 b. incur any duty of care toward a person who enters or
4 uses the land, or
5 c. assume any liability or responsibility for any injury
6 to persons or property caused by the act or omission
7 of a person who enters or uses the land.

8 2. This subsection applies whether the person entering or using
9 the land is an invitee, licensee, trespasser, or otherwise.

10 D. This section shall not apply if:

11 1. Any charge is made or is usually made for entering or using
12 any part of the land; or

13 2. Any commercial or other activity for profit directly related
14 to the use is conducted on any part of the land.

15 E. 1. An owner of land leased to the state or to other public
16 entity for outdoor recreational purposes owes no duty of care to
17 keep the land safe for entry or use by others, or to give warning to
18 persons entering or using the land of any hazardous conditions,
19 structures, or activities. Any owner who leases or subleases land
20 to the state or other public entity for outdoor recreational
21 purposes shall not:

- 22 a. be presumed to extend any assurance that the land is
23 safe for any purpose,
24

1 b. incur any duty of care toward a person who enters or
2 uses the leased land, or

3 c. become liable or responsible for any injury to persons
4 or property caused by the act or omission of a person
5 who enters or uses the leased land.

6 2. This subsection applies whether the person entering or using
7 the leased land is an invitee, licensee, trespasser, or otherwise,
8 notwithstanding any other section of law.

9 F. 1. Except as provided in this section, no person is
10 relieved of liability which would exist for want of ordinary care or
11 for deliberate, willful, or malicious injury to persons or property.
12 The provisions shall not create or increase the liability of any
13 person.

14 2. This section shall not relieve any owner of any liability
15 for the operation and maintenance of structures affixed to real
16 property by the owner for use by the general public.

17 G. By entering or using land, no person shall be deemed to be
18 acting as an employee or agent of the owner whether the entry or use
19 is with or without the knowledge or consent of the owner.

20 H. The provisions of this section shall not apply to any land
21 that is used primarily for farming or ranching activities or to
22 roads, water, watercourses, private ways, buildings, structures, and
23 machinery or equipment when attached to realty which is used
24 primarily for farming or ranching activities.

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7 An Act relating to torts; amending 76 O.S. 2011,
8 Section 10.1, which relates to limitation on
9 landowner liability; modifying definitions; and
10 providing an effective date.

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 3. AMENDATORY 76 O.S. 2011, Section 10.1, is
14 amended to read as follows:

15 Section 10.1 A. 1. The purpose of this section is to
16 encourage landowners to make land available to the public for
17 outdoor recreational purposes by limiting their liability to persons
18 entering upon and using such land and to third persons who may be
19 damaged by the acts or omissions of persons going upon these lands.

20 2. As used in this section:

- 21 a. "land" means real property, roads, water,
22 watercourses, private ways, buildings, structures, and
23 machinery or equipment when attached to realty. ~~The~~
24 ~~term "land" shall not include any land that is used~~

1 ~~primarily for farming or ranching activities or to any~~
2 ~~roads, water, watercourses, private ways, buildings,~~
3 ~~structures, and machinery or equipment when attached~~
4 ~~to realty which is used primarily for farming or~~
5 ~~ranching activities,~~

6 b. "outdoor recreational purposes" includes any of the
7 following, or any combination thereof: hunting,
8 fishing, swimming, boating, camping, picnicking,
9 hiking, pleasure driving, jogging, cycling, other
10 sporting events and activities, nature study, water
11 skiing, jet skiing, winter sports, ~~and~~ viewing or
12 enjoying historical, archaeological, scenic, or
13 scientific sites, and aviation, including fly-ins at
14 private airports,

15 c. "owner" means the possessor of a fee interest, a
16 tenant, lessee, occupant, or person in control of the
17 land, and

18 d. "charge" means the admission price or fee asked in
19 return for invitation or permission to enter or go
20 upon the land. The term "charge" shall not include a
21 license or permit fee imposed by a governmental entity
22 for the purpose of regulating the use of land, a water
23 or park area, or lake reservation ~~and;~~ shall not
24 include hunting, fishing, boating, and other license

1 and permit fees; shall not include hunting or fishing
2 leases; and shall not include donations made at fly-
3 ins at private airports.

4 B. An owner who provides the public with land for outdoor
5 recreational purposes owes no duty of care to keep the land safe for
6 entry or use by others, or to give warning to persons entering or
7 using the land of any hazardous conditions, structures, or
8 activities.

9 C. 1. Except as otherwise provided by this section, an owner
10 who provides the public with land for outdoor recreational purposes
11 shall not:

12 a. be presumed to extend any assurance that the land is
13 safe for any purpose,

14 b. incur any duty of care toward a person who enters or
15 uses the land, or

16 c. assume any liability or responsibility for any injury
17 to persons or property caused by the act or omission
18 of a person who enters or uses the land.

19 2. This subsection applies whether the person entering or using
20 the land is an invitee, licensee, trespasser, or otherwise.

21 D. This section shall not apply if:

22 1. Any charge is made or is usually made for entering or using
23 any part of the land; or
24

1 2. Any commercial or other activity for profit directly related
2 to the use is conducted on any part of the land.

3 E. 1. An owner of land leased to the state or to other public
4 entity for outdoor recreational purposes owes no duty of care to
5 keep the land safe for entry or use by others, or to give warning to
6 persons entering or using the land of any hazardous conditions,
7 structures, or activities. Any owner who leases or subleases land
8 to the state or other public entity for outdoor recreational
9 purposes shall not:

- 10 a. be presumed to extend any assurance that the land is
11 safe for any purpose,
- 12 b. incur any duty of care toward a person who enters or
13 uses the leased land, or
- 14 c. become liable or responsible for any injury to persons
15 or property caused by the act or omission of a person
16 who enters or uses the leased land.

17 2. This subsection applies whether the person entering or using
18 the leased land is an invitee, licensee, trespasser, or otherwise,
19 notwithstanding any other section of law.

20 F. 1. Except as provided in this section, no person is
21 relieved of liability which would exist for want of ordinary care or
22 for deliberate, willful, or malicious injury to persons or property.
23 The provisions shall not create or increase the liability of any
24 person.

