

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1367

By: Paulk of the House

and

Leftwich of the Senate

COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 1991, Section 1301-315, which relates to liability of persons making land available for recreational purposes; clarifying language; setting parameters of terms; providing exception for application of section; making landowner or lessee liable for operation and maintenance of certain structures; stating that persons who enter land, water or park areas are not deemed employees or agents; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 2 O.S. 1991, Section 1301-315, is amended to read as follows:

Section 1301-315. A. The purpose of this section is to encourage ~~persons~~ landowners and lessees to make available ~~to the public~~ land, water areas ~~and~~, park areas and lake reservations for outdoor recreational purposes by limiting their liability to persons going thereon and to third persons who may be damaged by the acts or omissions of persons going thereon. As used in this section, the term "area" includes any water area and any park area. As used in this section, the term "land" includes but is not limited to lake reservations.

B. 1. An owner or lessee who provides the public with a land, a water or park area, or lake reservation for outdoor recreational purposes owes no duty of care to keep ~~that park~~ the land or area

safe for entry or use by others, or to give warning to persons entering or going on ~~that park~~ the land or area of any hazardous conditions, structures or activities thereon. An owner or lessee who provides the public with a ~~park~~ land or area for outdoor recreational purposes shall not ~~by providing that park area:~~

1. ~~Be~~

a. be presumed to extend any assurance that ~~such park the~~ land or area is safe for any purpose~~;~~

2. ~~Incur~~

b. incur any duty of care toward a person who goes on the ~~park~~ land or area~~;~~ or

3. ~~Become~~

c. become liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on ~~that park~~ the land or area.

2. This subsection applies whether the person going on the land or area is an invitee, licensee, trespasser or otherwise, notwithstanding any other section of law.

C. This section shall not apply if there is any charge made or usually made ~~by~~ for entering or using ~~such park~~ the land or area, or if any commercial or other activity for profit directly related to the use is conducted on ~~such park~~ the land or area, ~~or any part thereof.~~ As used in this subsection, the term "charge" shall mean the admission price or fee asked in return for invitation or permission to enter or go upon the land or area. As used in this subsection, the term "charge" shall not include a license or permit fee imposed by a governmental entity for the purpose of regulating the use of land, a water or park area, or lake reservation and shall not include hunting, fishing, boating and other license and permit fees.

D. 1. An owner of land ~~or,~~ a water ~~area~~ or park area, or lake reservation leased to the state or other public entity for outdoor

recreational purposes owes no duty of care to keep ~~that~~ the land or ~~water~~ area safe for entry or use by others, or to give warning to persons entering or going on ~~that~~ the land or ~~water~~ area of any hazardous conditions, structures or activities thereon. Any owner or lessee who leases or subleases land ~~or,~~ a water area or park area, or lake reservation to the state or other public entity for outdoor recreational purposes shall not ~~by giving such lease:~~

~~1. Be~~

- a. be presumed to extend any assurance that ~~such~~ the land or ~~water~~ area is safe for any purpose~~;~~ .

~~2. Incur~~

- b. incur any duty of care toward a person who goes on the leased land or ~~water~~ area~~;~~ . or

~~3. Become~~

- c. become liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the leased land or ~~water~~ area.

~~The foregoing~~ 2. This subsection applies whether the person going on the leased land or ~~water~~ area is an invitee, licensee, trespasser or otherwise, notwithstanding any other section of law.

E. ~~This act does not relieve any~~ 1. Except as otherwise provided in this section, no person is relieved of liability which would otherwise exist for want of ordinary care or for deliberate, willful or malicious injury to persons or property. The provisions hereof shall not be deemed to create or increase the liability of any person.

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

F. The term "outdoor recreational purposes" as used in this ~~act~~ shall include, section includes, but is not ~~necessarily be~~ limited to, hunting, fishing, swimming, boating, camping, picnicking,

hiking, pleasure driving, jogging, cycling, other sporting events and activities, nature study, water skiing, jet skiing and visiting historical, archaeological, scenic or scientific sites.

G. By entering or using land, a water or park area, or lake reservation no person shall be deemed to be acting as an employee or agent of the owner or lessee whether the entry or use is with or without the knowledge or consent of the owner or lessee.

SECTION 2. This act shall become effective November 1, 2000.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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