

EHB 1190

THE STATE SENATE
Tuesday, April 3, 2001

ENGROSSED

House Bill No. 1190

As Amended

ENGROSSED HOUSE BILL NO. 1190 - By: POPE (Clay) of the House and HENRY of the Senate.

[agriculture and recreational activities - amending 2 O.S., Section 1301-315 - property owners - liability - amending 76 O.S., Sections 10 and 14 - effective date]

SECTION 1. AMENDATORY 2 O.S. 1991, Section 1301-315, as amended by Section 1, Chapter 141, O.S.L. 2000 (2 O.S. Supp. 2000, Section 1301-315), is amended to read as follows:

Section 1301-315. A. The purpose of this section is to encourage landowners and lessees to make available land, water areas, 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 land, a water or park area, or lake reservation for outdoor recreational purposes owes no duty of care to keep the land or area safe for

1 entry or use by others, or to give warning to persons entering or
2 going on the land or area of any hazardous conditions, structures or
3 activities thereon. An owner or lessee who provides the public with
4 land or area for outdoor recreational purposes shall not:

- 5 a. be presumed to extend any assurance that the land or
6 area is safe for any purpose,
- 7 b. incur any duty of care toward a person who goes on the
8 land or area, or
- 9 c. become liable or responsible for any injury to persons
10 or property caused by the act or omission of a person
11 who goes on the land or area.

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

15 C. This section shall not apply if there is any charge made or
16 usually made for entering or using the land or area, or any part
17 thereof, or if any commercial or other activity for profit directly
18 related to the use is conducted on the land or area. As used in
19 this subsection, the term "charge" shall mean the admission price or
20 fee asked in return for invitation or permission to enter or go upon
21 the land or area. As used in this subsection, the term "charge"
22 shall not include a license or permit fee imposed by a governmental
23 entity for the purpose of regulating the use of land, a water or

1 park area, or lake reservation and shall not include hunting,
2 fishing, boating and other license and permit fees.

3 D. 1. An owner of land, a water or park area, or lake
4 reservation leased to the state or other public entity for outdoor
5 recreational purposes owes no duty of care to keep the land or area
6 safe for entry or use by others, or to give warning to persons
7 entering or going on the land or area of any hazardous conditions,
8 structures or activities thereon. Any owner or lessee who leases or
9 subleases land, a water or park area, or lake reservation to the
10 state or other public entity for outdoor recreational purposes shall
11 not:

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

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

22 E. 1. Except as otherwise provided in this section, no person
23 is relieved of liability which would otherwise exist for want of

1 ordinary care or for deliberate, willful or malicious injury to
2 persons or property. The provisions hereof shall not be deemed to
3 create or increase the liability of any person.

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

7 F. The term "outdoor recreational purposes" as used in this
8 section includes, but is not limited to, hunting, fishing, swimming,
9 boating, camping, picnicking, hiking, pleasure driving, jogging,
10 cycling, other sporting events and activities, nature study, water
11 skiing, jet skiing and visiting historical, archaeological, scenic
12 or scientific sites.

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

17 H. The provisions of this section shall not apply to any land
18 when it is used primarily for farming or ranching activities and to
19 roads, water, watercourses, private ways, buildings, structures, and
20 machinery or equipment when attached to realty which is used
21 primarily for farming or ranching activities. Sections 10 through
22 15.1 of Title 76 of the Oklahoma Statutes shall govern such land.

1 SECTION 2. AMENDATORY 76 O.S. 1991, Section 10, is
2 amended to read as follows:

3 Section 10. As used in ~~this act~~ Sections 10 through 15.1 of
4 this title:

5 ~~(a)~~ 1. "Land" means land which is used primarily for farming or
6 ranching activities, roads, water, watercourses, private ways ~~and,~~
7 buildings, structures, and machinery or equipment when attached to
8 realty which is used primarily for farming or ranching activities~~;~~

9 ~~(b)~~ 2. "Owner" means the possessor of a fee interest, a tenant,
10 lessee, occupant or person in control of the premises~~;~~ and

11 ~~(c)~~ 3. "Recreational purpose" includes, but is not limited to,
12 any of the following, or any combination thereof: hunting, fishing,
13 swimming, boating, camping, picnicking, hiking, pleasure driving,
14 nature study, water skiing, winter sports, and viewing or enjoying
15 historical, archaeological, scenic, or scientific sites.

16 ~~(d) "Charge" means the admission price or fee asked in return~~
17 ~~for invitation or permission to enter or go upon the land.~~

18 SECTION 3. AMENDATORY 76 O.S. 1991, Section 14, is
19 amended to read as follows:

20 Section 14. Nothing in ~~this act~~ Sections 10 through 15.1 of
21 this title limits in any way any liability which otherwise exists~~;~~

22 ~~(a) For~~ for willful or malicious failure to guard or warn
23 against a dangerous condition, use, structure or activity.

1 ~~(b) For injury suffered in any case where the owner of land~~
2 ~~charges the person or persons who enter or go on the land for the~~
3 ~~recreational use thereof, except that in the case of land leased to~~
4 ~~the state or subdivision thereof, any consideration received by the~~
5 ~~owner for such lease shall not be deemed a charge within the meaning~~
6 ~~of this section.~~

7 SECTION 4. This act shall become effective November 1, 2001.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-27-01 - DO
9 PASS, As Amended.