

1 ENGROSSED HOUSE
2 BILL NO. 2904

By: Brown and Morgan of the
House

3 and

4 Burrage of the Senate
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8 An Act relating to torts; amending 76 O.S. 2011,
9 Section 10.1, which relates to limitation on
10 landowner liability; modifying definitions; removing
exception to application of law; and providing an
effective date.

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

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

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

21 2. As used in this section:

22 a. "land" means real property, roads, water,
23 watercourses, private ways, buildings, structures, and
24 machinery or equipment when attached to realty. ~~The~~

1 ~~term "land" shall not include any land that is used~~
2 ~~primarily for farming or ranching activities or to any~~
3 ~~roads, water, watercourses, private ways, buildings,~~
4 ~~structures, and machinery or equipment when attached~~
5 ~~to realty which is used primarily for farming or~~
6 ~~ranching activities,~~

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

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

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

1 include hunting, fishing, boating, and other license
2 and permit fees, including hunting or fishing leases,
3 and shall not include donations made for landing at
4 and taking off from private nonpublic-use airports.

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

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

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

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

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

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

22 D. This section shall not apply if:

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

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.

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

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

7 ~~H. The provisions of this section shall not apply to any land
8 that is used primarily for farming or ranching activities or to
9 roads, water, watercourses, private ways, buildings, structures, and
10 machinery or equipment when attached to realty which is used
11 primarily for farming or ranching activities.~~

12 ~~Sections 26 through 32 of this act shall govern such land.~~

13 SECTION 2. This act shall become effective November 1, 2012.

14 Passed the House of Representatives the 13th day of March, 2012.

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Presiding Officer of the House of
Representatives

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19 Passed the Senate the ____ day of _____, 2012.

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Presiding Officer of the Senate

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