STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2904 By: Morgan

AS INTRODUCED

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

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

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

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

2. As used in this section:

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

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

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

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

d. "charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land. 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, including hunting or fishing leases, and shall not include donations made for landing at and taking off from private nonpublic-use airports.

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

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

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

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

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

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

D. This section shall not apply if:

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

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

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

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

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

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

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

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

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

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

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

I. Sections ~~26~~ 16-71.1 through ~~32~~ 16-71.7 of ~~this act~~ Title 2 of the Oklahoma Statutes shall govern such land.

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

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