

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 1009

By: Brown and Pittman of the
House

6 and

7 Burrage of the Senate

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to torts; amending 76 O.S. 2011,
11 Section 10.1, which relates to limitation on
12 landowner liability; modifying definitions; updating
13 statutory references; and providing an effective
14 date.

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

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

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

23 2. As used in this section:
24

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

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

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

22 d. "charge" means the admission price or fee asked in
23 return for invitation or permission to enter or go
24 upon the land. The term "charge" shall not include:

1 (1) a license or permit fee imposed by a governmental
2 entity for the purpose of regulating the use of
3 land, a water or park area, or lake reservation
4 ~~and shall not include,~~

5 (2) hunting, fishing, boating, and other license and
6 permit fees,

7 (3) hunting or fishing leases, or

8 (4) donations made at fly-ins at non-public-use
9 airports, and

10 e. "non-public-use airport" means an airport that is
11 primarily used by the owner with access to the public
12 as permitted by the owner.

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

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

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

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

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

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

6 D. This section shall not apply if:

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

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

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

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

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

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

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

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

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

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

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

20 ~~Sections 26 through 32 of this act~~ The Oklahoma Limitation of
21 Liability for Farming and Ranching Land Act shall govern such land.

22 SECTION 2. This act shall become effective November 1, 2013.

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