

1 **SENATE FLOOR VERSION**

2 March 19, 2013

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 1009

By: Brown and Pittman of the  
House

6 and

7 Burrage of the Senate

8  
9 [ torts - limitation on landowner liability -  
10 definitions - effective date ]

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

20 2. As used in this section:

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

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

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

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

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



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

3           D. This section shall not apply if:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
21 March 19, 2013 - DO PASS AS AMENDED  
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