

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1224

By: Hardin of the House

and

Simpson of the Senate

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to agriculture; creating the Oklahoma
11 Agricultural Land for Recreation Liability Limitation
12 Act; defining terms; eliminating liability for injury
13 of a participant of recreational activities under
14 certain conditions; providing affirmative defense of
15 assumption of the risk; providing exceptions;
16 requiring posting of warning notice; providing for
17 codification; and providing an effective date

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 5-31 of Title 2, unless there is
21 created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Oklahoma
23 Agricultural Land for Recreation Liability Limitation Act".

24 SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5-32 of Title 2, unless there is
created a duplication in numbering, reads as follows:

1 As used in the Oklahoma Agricultural Land for Recreation

2 Liability Limitation Act:

3 1. "Agricultural land" means land suitable for use in the
4 production of fruit or crops grown for human or animal consumption
5 or plants grown for production of fibers, floriculture, viticulture,
6 horticulture, silviculture or plant seed or suitable for domestic or
7 native farm or ranch animals to be kept for use or profit;

8 2. "Recreational activity" means hunting, fishing, swimming,
9 boating, camping, picnicking, hiking, pleasure driving (including
10 ATVs), nature study, cave exploration, water sports, biking, disc
11 golf, dog walking, horseback riding, radio control flying and other
12 activities associated with enjoying nature or the outdoors;

13 3. "Inherent risks of a recreational activity" means those
14 dangers or conditions that are an integral part of a recreational
15 activity including certain hazards, surface and subsurface
16 conditions, natural conditions of land, vegetation and waters, the
17 behavior of wild or domestic animals and ordinary dangers of
18 structures or equipment ordinarily used on agricultural land.
19 Inherent risks of recreational activities also include the potential
20 of a participant to act in a negligent manner that may contribute to
21 injury to the participant or others, including failing to follow
22 instructions given by the owner or operator of the agricultural land
23 or failing to exercise reasonable caution while engaging in a
24 recreational activity; and

1 4. "Participant" means any person other than the owner or
2 operator of agricultural land who engages in a recreational
3 activity.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5-33 of Title 2, unless there is
6 created a duplication in numbering, reads as follows:

7 A. Except as provided in subsection B of this section, an owner
8 or operator of agricultural land is not liable for injury to a
9 participant resulting from the inherent risks of recreational
10 activities, so long as the warning contained in Section 4 of this
11 act is posted as required and, except as provided in subsection B of
12 this section, no participant or participant's representative can
13 maintain an action against or recover from an owner or operator of
14 agricultural land for injury, loss or damage to the participant
15 resulting exclusively from any of the inherent risks of recreational
16 activities. In any action for damages against an owner or operator
17 of agricultural land for recreational activity, the owner or
18 operator of agricultural land shall plead the affirmative defense of
19 assumption of the risk of recreational activity by the participant.

20 B. Nothing in subsection A of this section prevents or limits
21 the liability of an owner or operator of agricultural land if the
22 owner or operator of agricultural land does any one or more of the
23 following:
24

1 1. Commits an act or omission that constitutes negligence or
2 willful or wanton disregard for the safety of the participant, and
3 that act or omission proximately causes injury or damage to the
4 participant; and

5 2. Has actual knowledge or reasonably should have known of a
6 dangerous condition on the land, facilities or equipment used in the
7 activity or the dangerous propensity of a particular animal used in
8 such activity and does not make the danger known to the participant,
9 and the danger proximately causes injury or damage to the
10 participant.

11 C. Any limitation on legal liability afforded by this section
12 to an owner or operator of agricultural land is in addition to any
13 other limitations of legal liability otherwise provided by law.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 5-34 of Title 2, unless there is
16 created a duplication in numbering, reads as follows:

17 A. Every owner or operator of agricultural land shall post and
18 maintain signs that contain the warning notice specified in
19 subsection B of this section. The sign shall be placed in a clearly
20 visible location at the entrance to the agricultural land or near
21 any location where the recreational activity occurs. The warning
22 notice shall consist of a sign in black letters, with each letter to
23 be a minimum of one (1) inch in height. Every written contract
24 entered into by an owner or operator of agricultural land for the

1 providing of professional services, instruction or the rental of
2 equipment to a participant, whether or not the contract involves
3 recreational activities on or off the location or at the site of the
4 recreational activity, shall contain in clearly readable print the
5 warning notice specified in subsection B of this section.

6 B. The signs and contracts described in subsection A of this
7 section must contain the following notice of warning:

8 "WARNING

9 Under Oklahoma law, there is no liability for an injury to a
10 participant in a recreational activity conducted on agricultural
11 land if such injury results from the inherent risks of the
12 recreational activity. Inherent risks of recreational activities
13 include, among others, risks of injury inherent to land, equipment,
14 and animals, as well as the potential for you to act in a negligent
15 manner that may contribute to your injury. You are assuming the
16 risk of participating in this recreational activity."

17 C. Failure to comply with the requirements concerning warning
18 signs and notices provided in this section shall prevent an owner or
19 operator from invoking the privileges of immunity provided by the
20 Oklahoma Agricultural Land for Recreation Liability Limitation Act.

21 SECTION 5. This act shall become effective November 1, 2017.
22

23 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
24 dated 02/23/2017 - DO PASS, As Amended and Coauthored.