

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 56th Legislature (2018)

4   ENGROSSED SENATE  
5   BILL NO. 1181

By: Fields of the Senate

and

Pfeiffer of the House

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9       An Act relating to Oklahoma Limitation of Liability  
10      for Farming and Ranching Land Act; amending 2 O.S.  
11      2011, Sections 16-71.1, as amended by Section 1,  
12      Chapter 236, O.S.L. 2013 (2 O.S. Supp. 2017, Section  
13      16-71.1), 16-71.2, 16-71.3, 16-71.4 and 16-71.5,  
14      which relate to the short title, entry upon lands for  
15      recreational purposes, use of property without  
16      charge, lands leased to the State, and willful or  
17      malicious acts; removing per acre charge limitation  
18      to applicability; deleting definition; updating  
19      citation; and providing an effective date.

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

SECTION 1.       AMENDATORY       2 O.S. 2011, Section 16-71.1, as  
amended by Section 1, Chapter 236, O.S.L. 2013 (2 O.S. Supp. 2017,  
Section 16-71.1), is amended to read as follows:

Section 16-71.1.   A.   Sections 16-71.1 through 16-71.7 of this  
title shall be known and may be cited as the "Oklahoma Limitation of  
Liability for Farming and Ranching Land Act".

1       B. ~~1.~~ The purpose of the Oklahoma Limitation of Liability for  
2 Farming and Ranching Land Act is to encourage owners of farming and  
3 ranching lands to make such land available for recreational purposes  
4 by limiting their liability to persons entering or using the farm  
5 and ranch land and to third persons who may be damaged by the acts  
6 or omissions of persons entering upon or using these lands.

7       ~~2. The Oklahoma Limitation of Liability for Farming and~~  
8 ~~Ranching Land Act applies only to an owner of land who does not~~  
9 ~~charge more than Ten Dollars (\$10.00) per acre per year for that~~  
10 ~~land used for recreational purposes.~~

11       C. As used in the Oklahoma Limitation of Liability for Farming  
12 and Ranching Land Act:

13       1. "Land" means land which is used for farming, ranching  
14 activities and recreational purposes, as defined in this section,  
15 including, but not limited to, roads, water, watercourses, private  
16 ways, buildings, structures, and machinery or equipment when  
17 attached to realty which is used primarily for farming or ranching  
18 activities;

19       2. "Owner" means the possessor of a fee interest, a tenant,  
20 lessee, occupant or person in control of the premises but shall not  
21 include a tenant, lessee, occupant or person in control of the  
22 premises who is engaging in any recreational purpose described in  
23 paragraph 3 of this subsection; and

1        3. "Recreational purpose" includes any of the following, or any  
2 combination thereof: hunting, fishing, wildlife and ecological  
3 viewing or photography, recreational farming and ranching  
4 activities, swimming, boating, camping, picnicking, hiking, pleasure  
5 driving, jogging, cycling, other similar events and activities,  
6 nature study, water skiing, winter sports, jet skiing, viewing or  
7 enjoying historical, archaeological, scenic, or scientific sites and  
8 aviation, including fly-ins at private airports; ~~and~~

9        ~~4. "Charge" means the admission price or fee asked in return  
10 for invitation or permission to enter or use the land. The term  
11 "charge" shall not include a license or permit fee imposed by a  
12 governmental entity for the purpose of regulating the use of land, a  
13 water or park area, or lake reservation; shall not include hunting,  
14 fishing, boating, and other license and permit fees; shall not  
15 include hunting or fishing leases; and shall not include donations  
16 made at fly-ins at private airports.~~

17        D. The Oklahoma Limitation of Liability for Farming and  
18 Ranching Land Act shall not apply to any land that is used for  
19 purposes other than farming and ranching. Such land shall be  
20 governed by Section 10.1 of Title 76 of the Oklahoma Statutes.

21        SECTION 2.        AMENDATORY        2 O.S. 2011, Section 16-71.2, is  
22 amended to read as follows:

23        Section 16-71.2. Except as specifically recognized by or  
24 provided in Section ~~30~~ 16-71.5 of this ~~act~~ title, an owner who

1 provides the public with land for recreational purposes which is  
2 used primarily for farming or ranching activities owes no duty of  
3 care to keep the land safe for entry or use by others for  
4 recreational purposes, or to give any warning of a dangerous or  
5 hazardous condition, use, structure, or activity on such land to  
6 persons entering or using the land for such purposes.

7 SECTION 3. AMENDATORY 2 O.S. 2011, Section 16-71.3, is  
8 amended to read as follows:

9 Section 16-71.3. A. Except as specifically recognized by or  
10 provided in Section ~~30~~ 16-71.5 of this ~~act~~ title, an owner of land  
11 which is used primarily for farming or ranching activities, who  
12 either directly or indirectly invites or permits, under the  
13 circumstance described in subsection B of Section ~~26~~ 16-71.1 of this  
14 ~~act~~ title, any person to enter or use such land for recreational  
15 purposes, does not:

16 1. Extend any assurance that the premises are safe for any  
17 purpose;

18 2. Incur any duty of care toward a person who enters or uses  
19 the land; or

20 3. Assume responsibility or incur liability for any injury to  
21 person or property caused by an act or omission of such persons.

22 B. This section applies whether the person entering, or using  
23 the land is an invitee, licensee, or otherwise.

1 C. This section does not affect the liability of an insurer or  
2 insurance plan in an action under the Insurance Code, or an action  
3 for bad faith conduct, breach of fiduciary duty, or negligent  
4 failure to settle a claim.

5 D. This section shall not apply to the state or other  
6 governmental unit.

7 SECTION 4. AMENDATORY 2 O.S. 2011, Section 16-71.4, is  
8 amended to read as follows:

9 Section 16-71.4. Unless otherwise agreed in writing, the  
10 provisions of Sections ~~27~~ 16-71.2 and ~~28~~ 16-71.3 of this act ~~are~~ title  
11 shall be deemed applicable to the duties and liability of an owner  
12 of land which is used primarily for farming or ranching activities,  
13 is on or adjoins land entered upon the National Register of Historic  
14 Places and for which an easement has been granted to the Oklahoma  
15 Historical Society, or is leased to the state or any subdivision  
16 thereof for recreational purposes.

17 SECTION 5. AMENDATORY 2 O.S. 2011, Section 16-71.5, is  
18 amended to read as follows:

19 Section 16-71.5. ~~A.~~ Nothing in the Oklahoma Limitation of  
20 Liability for Farming and Ranching Land Act limits in any way any  
21 liability which otherwise exists for want of ordinary care or for  
22 deliberate, willful, or malicious injury or failure to guard or warn  
23 against a dangerous or hazardous condition, use, structure, or  
24 activity.

1       ~~B. In the case of land leased to the state or subdivision~~  
2 ~~thereof, any consideration received by the owner for such lease~~  
3 ~~shall not be deemed a charge within the meaning of this section.~~

4       SECTION 6. This act shall become effective November 1, 2018.

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6 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,  
7 dated 04/10/2018 - DO PASS.  
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