

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 306

By: Haste of the Senate

and

Humphrey of the House

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9  
10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to landowner liability; amending 76  
12                   O.S. 2011, Section 10.1, as amended by Section 1,  
13                   Chapter 225, O.S.L. 2013 (76 O.S. Supp. 2020, Section  
14                   10.1), which relates to landowner liability;  
15                   modifying provisions related to liability based on  
16                   designated uses; and providing an effective date.

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

18                   SECTION 1.           AMENDATORY           76 O.S. 2011, Section 10.1, as  
19                   amended by Section 1, Chapter 225, O.S.L. 2013 (76 O.S. Supp. 2020,  
20                   Section 10.1), is amended to read as follows:

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

3 2. As used in this section:

4 a. "land" means real property, roads, water,  
5 watercourses, private ways, buildings, structures, and  
6 machinery or equipment when attached to realty,

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

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

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

- 1 (2) hunting, fishing, boating, and other license and  
2 permit fees,  
3 (3) hunting or fishing leases, or  
4 (4) donations made at fly-ins at non-public-use  
5 airports, and

6 e. "non-public-use airport" means an airport that is  
7 primarily used by the owner with access to the public  
8 as permitted by the owner.

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

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

- 17 a. be presumed to extend any assurance that the land is  
18 safe for any purpose,  
19 b. incur any duty of care toward a person who enters or  
20 uses the land, or  
21 c. assume any liability or responsibility for any injury  
22 to persons or property caused by the act or omission  
23 of a person who enters or uses the land.  
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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.~~ E. 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.~~ F. By entering or using land, no person shall be deemed to  
10 be acting as an employee or agent of the owner whether the entry or  
11 use is with or without the knowledge or consent of the owner.

12       ~~H.~~ G. The provisions of this section shall not apply to any  
13 land 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       The Oklahoma Limitation of Liability for Farming and Ranching  
18 Land Act shall govern such land.

19       SECTION 2. This act shall become effective November 1, 2021.

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21 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/08/2021 - DO PASS,  
22 As Amended.

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