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States' Recreational Use Statutes

State of Alabama

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States' Recreational Use Statutes

STATE OF ALABAMA

AL ST § 35-15-1 to § 35-15-28

Current through Act 2010-499 of the 2010 Regular Session.

§ 35-15-1. No duty owed except as provided in Section 35-15-3.

An owner, lessee or occupant of premises owes no duty of care to keep such premises safe for entry and use by others for hunting, fishing, trapping, camping, water sports, hiking, boating, sight-seeing, caving, climbing, rappelling or other recreational purposes or to give any warning of hazardous conditions, use of structures or activities on such premises to persons entering for the above-stated purposes, except as provided in section 35-15-3.

§ 35-15-2. Effect of permission to use premises.

An owner, lessee or occupant of premises who gives permission to another to hunt, fish, trap, camp, hike, sight-see, cave, climb, rappel or engage in other sporting or recreational activities upon such premises does not thereby extend any assurance that the premises are safe for such purpose nor constitute the person to whom permission has been granted the legal status of an invitee to whom a duty of care is owed or assume responsibility for or incur liability for any injury to person or property caused by an act of such person to whom permission has been granted, except as provided in section 35-15-4.

§ 35-15-3. Otherwise existing liability not limited.

This article does not limit the liability which otherwise exists for wilful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp, hike, cave, climb, rappel or sight-see was granted for commercial enterprise for profit; or for injury caused by acts of persons to whom permission to hunt, fish, trap, camp, hike or sight-see was granted to third persons as to whom the person granting permission, or the owner, lessee or occupant of the premises owned a duty to keep the premises safe or to warn of danger.

§ 35-15-4. General duty of care or ground of liability not created.

Nothing in this article creates a duty of care or ground of liability for injury to person or property.

§ 35-15-5. Right to go on lands of another without permission not created.

Nothing in this article shall be construed as granting or creating a right for any person to go on the lands of another without permission of the landowner.

§ 35-15-20. Legislative intent.

It is hereby declared that there is a need for outdoor recreational areas in this state which are open for public use and enjoyment; that the use and maintenance of these areas will provide beauty and openness for the benefit of the public and also assist in preserving the health, safety, and welfare of the population; that it is in the public interest to encourage owners of land to make such areas available to the public for non-commercial recreational purposes by limiting such owners' liability towards persons entering thereon for such purposes; that such limitation on liability would encourage owners of land to allow non-commercial public recreational use of land which would not otherwise be open to the public, thereby reducing state expenditures needed to provide such areas.

§ 35-15-21. Definitions.

Unless the context thereof clearly indicates to the contrary, as used in this article the following terms shall have the following meanings:

- (1) OWNER. Any public or private organization of any character, including a partnership, corporation, association, any individual, or any federal, State or local political subdivision or any agency of any of the foregoing having a legal right of possession of outdoor recreational land. For the purpose of this article, an employee or agent of the owner, but not an independent contractor while conducting activities upon the outdoor recreational land, is deemed to be an owner.
- (2) OUTDOOR RECREATIONAL LAND. Land and water, as well as buildings, structures, machinery and other such appurtenances used for or susceptible of recreational use.
- (3) RECREATIONAL USE or RECREATIONAL PURPOSE. Participation in or viewing of activities including, but not limited to, hunting, fishing, water sports, aerial sports, hiking, camping, picnicking, winter sports, animal or vehicular riding, or visiting, viewing or enjoying historical, archeological, scenic or scientific sites, and any related activity.
- (4) PERSON. Any individual, regardless of age, maturity, or experience.
- (5) COMMERCIAL RECREATIONAL USE. Any use of land for the purpose of receiving consideration for opening such land to recreational use where such use or activity is profit-motivated. Consideration does not include any benefit provided by law in accordance with this article, any other state or federal law, or in the form of good will for permitting recreational use as stated in this article; nor does consideration include a

charge by the landowner for maintenance fees where the primary use of the land is for other than public recreational purposes.

§ 35-15-22. Inspection and warning not required.

Except as specifically recognized by or provided in this article, an owner of outdoor recreational land who permits non-commercial public recreational use of such land owes no duty of care to inspect or keep such land safe for entry or use by any person for any recreational purpose, or to give warning of a dangerous condition, use, structure, or activity on such land to persons entering for such purposes.

§ 35-15-23. Limitations on legal liability of owner.

Except as expressly provided in this article, an owner of outdoor recreational land who either invites or permits non-commercial public recreational use of such land does not by invitation or permission thereby:

- (1) Extend any assurance that the outdoor recreational land is safe for any purpose;
- (2) Assume responsibility for or incur legal liability for any injury to the person or property owned or controlled by a person as a result of the entry on or use of such land by such person for any recreational purpose; or
- (3) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

§ 35-15-24. Otherwise existing liability not limited.

(a) Nothing in this article limits in any way legal liability which otherwise might exist when such owner has actual knowledge:

- (1) That the outdoor recreational land is being used for non-commercial recreational purposes;
- (2) That a condition, use, structure, or activity exists which involves an unreasonable risk of death or serious bodily harm;
- (3) That the condition, use, structure, or activity is not apparent to the person or persons using the outdoor recreational land; and
- (4) That having this knowledge, the owner chooses not to guard or warn, in disregard of the possible consequences.

(b) The test set forth in subsection (a) of this section shall exclude constructive knowledge by the owner as a basis of liability and does not create a duty to inspect the outdoor recreational land.

(c) Nothing in this article shall be construed to create or expand any duty or ground of liability or cause of action for injury to persons on property.

§ 35-15-25. Duty of care by persons using outdoor recreational land.

Nothing in this article shall be construed to relieve any person using outdoor recreational land open for non-commercial public recreational use from any obligation which such person may have in the absence of this article to exercise care in the use of such land and in the activities thereon, or from legal consequences of failure to employ such care.

§ 35-15-26. Provisions not applicable to commercial recreational enterprise.

The liability limitation provisions of this article shall not apply in any cause of action arising from acts or omissions occurring on or connected with land upon which any commercial recreational enterprise is conducted.

§ 35-15-27. Governmental immunity.

Nothing in this article shall be so construed as to alter or repeal any immunity from law suit presently conferred by law upon the state or political subdivision thereof, or any agency or instrumentality thereof.

§ 35-15-28. Owner must establish public use.

(a) The liability limitation protection of this article may be asserted only by an owner who can reasonably establish that the outdoor recreational land was open for non-commercial use to the general public at the time of the injury to a person using such land for any public recreational purpose. Any owner may create a rebuttable presumption of having opened land for non-commercial public recreational use by:

(1) Posting signs around the boundaries and at the entrance(s) of such land; or

(2) Publishing a notice in a newspaper of general circulation in the locality in which the outdoor recreational land is situated, and describing such land; or

(3) Recording a notice in the public records of any county in which any part of the outdoor recreational land is situated, and describing such land; or

(4) Any act similar to subdivisions (1), (2), or (3) of subsection (a), which is designed to put the public on notice that such outdoor recreational land is open to non-commercial public recreational use.

(b) The assertion of any of the provisions of the article by an owner shall not be construed to be

(1) expressed or implied dedication; (2) granting of an easement; or (3) granting of an irrevocable license, to any person or the public to use such outdoor recreational land.

(c) Any person who enters non-commercial outdoor recreational land for any recreational purpose either with or without an invitation or permission from the owner, and either with or without knowledge that the land is held open for non-commercial public recreational use is subject to the provisions of this article.

(d) The availability of outdoor recreational land for non-commercial public use may be conditioned upon reasonable restrictions on the time, place and manner of public use as the owner shall establish.