

The National Agricultural  
Law Center



An Agricultural Law Research Project

**States' Recreational Use Statutes**

**State of Vermont**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



## States' Recreational Use Statutes

### STATE OF VERMONT

#### **12 V.S.A. §§ 5791-5795**

*Current with all laws effective upon passage through No. 82 of the Adjourned Session of the 2009-2010 session (2010) of the Vermont General Assembly.*

#### **§ 5791. Purpose**

The purpose of this chapter is to encourage owners to make their land and water available to the public for no consideration for recreational uses by clearly establishing a rule that an owner shall have no greater duty of care to a person who, without consideration, enters or goes upon the owner's land for a recreational use than the owner would have to a trespasser.

#### **§ 5792. Definitions**

As used in this chapter:

(1) "Consideration" means a price, fee or other charge paid to or received by the owner in return for the permission to enter upon or to travel across the owner's land for recreational use. Consideration shall not include:

(A) compensation paid to or a tax benefit received by the owner for granting a permanent recreational use easement;

(B) payment or provision for compensation to be paid to the owner for damage caused by recreational use; or

(C) contributions in services or other consideration paid to the owner to offset or insure against damages sustained by an owner from the recreational use or to compensate the owner for damages from recreational use.

(2)

(A) "Land" means:

(i) open and undeveloped land, including paths and trails;

(ii) water, including springs, streams, rivers, ponds, lakes and other water courses;

- (iii) fences; or
- (iv) structures and fixtures used to enter or go upon land, including bridges and walkways.

(B) "Land" does not include:

- (i) areas developed for commercial recreational uses,
- (ii) equipment, machinery or personal property, and
- (iii) structures and fixtures not described in subdivision (2)(A)(iii) or (iv) of this section.

(3) "Owner" means a person who owns, leases, licenses or otherwise controls ownership or use of land, and any employee or agent of that person.

(4) "Recreational use" means an activity undertaken for recreational, educational or conservation purposes, and includes hunting, fishing, trapping, guiding, camping, biking, in-line skating, jogging, skiing, swimming, diving, water sports, rock climbing, hang gliding, caving, boating, hiking, riding an animal or a vehicle, picking wild or cultivated plants, picnicking, gleaning, rock collecting, nature study, outdoor sports, visiting or enjoying archeological, scenic, natural, or scientific sites, or other similar activities. "Recreational use" also means any noncommercial activity undertaken without consideration to create, protect, preserve, rehabilitate or maintain the land for recreational uses.

### **§ 5793. Liability limited**

(a) Land. An owner shall not be liable for property damage or personal injury sustained by a person who, without consideration, enters or goes upon the owner's land for a recreational use unless the damage or injury is the result of the willful or wanton misconduct of the owner.

(b) Equipment, fixtures, machinery or personal property.

(1) Unless the damage or injury is the result of the willful or wanton misconduct of the owner, an owner shall not be liable for property damage or personal injury sustained by a person who, without consideration and without actual permission of the owner, enters or goes upon the owner's land for a recreational use and proceeds to enter upon or use:

- (A) equipment, machinery or personal property; or
- (B) structures or fixtures not described in subdivision 5792(2)(A)(iii) or (iv) of this title.

(2) Permission to enter or go upon an owner's land shall not, by itself, include permission to enter or go upon structures or to go upon or use equipment, fixtures, machinery or personal property.

### **§ 5794. Landowner protection**

(a) The fact that an owner has made land available without consideration for recreational uses shall not be construed to:

- (1) limit the property rights of owners;
- (2) limit the ability of an owner and a recreational user of the land to enter into agreements for the recreational use of the land to vary or supplement the duties and limitations created in this chapter;
- (3) support or create any claim or right of eminent domain, adverse possession or other prescriptive right or easement or any other land use restriction;
- (4) alter, modify or supersede the rights and responsibilities under chapters 191, animal control, and 193, domestic pet or wolf-hybrid control, of Title 20; under chapters 29, snowmobiles, and 31, all-terrain vehicles, of Title 23; under chapter 23, bicycle routes, of Title 19; and under chapter 20, Vermont trail system, of Title 10;
- (5) extend any assurance that the land is safe for recreational uses or create any duty on an owner to inspect the land to discover dangerous conditions;
- (6) relieve a person making recreational use of land from the obligation the person may have in the absence of this chapter to exercise due care for the person's own safety in the recreational use of the land.

(b) Nothing in this chapter shall create any presumption or inference of permission or consent to enter upon an owner's land for any purpose.

(c) For the purposes of protecting landowners who make land available for recreational use to members of the public for no consideration pursuant to this chapter, the presence of one or more of the following on land does not by itself preclude the land from being "open and undeveloped": posting of the land, fences, or agricultural or forestry related structures.

#### **§ 5795. Exceptions**

This chapter shall not apply to lands owned by a municipality or the state.