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States' Recreational Use Statutes: *Oklahoma*



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Okla. St. § 2-16-71.1 to § 2-16-71.6 ; § 74-3458 ; § 76-10.1

Current with legislation of the Second Regular Session of the 58th Legislature (2022) effective through October 1, 2022.

§ 2-16-71.1. Oklahoma Limitation of Liability for Farming and Ranching Land Act-- Purpose--Definitions--Applicability of act to land used for purposes than farming and ranching

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".

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

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

1. "Land" means land which is used for farming, ranching activities and recreational purposes, as defined in this section, including, but not limited to, roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty which is used primarily for farming or ranching activities;
2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises but shall not include a tenant, lessee, occupant or person in control of the premises who is engaging in any recreational purpose described in paragraph 3 of this subsection; and
3. "Recreational purpose" includes any of the following, or any combination thereof: hunting, fishing, wildlife and ecological viewing or photography, recreational farming and ranching activities, swimming, boating, camping, picnicking, hiking, pleasure driving, jogging, cycling, other similar events and activities, nature study, water skiing, winter sports, jet skiing, viewing or enjoying historical, archaeological, scenic, or scientific sites and aviation, including fly-ins at private airports.



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

§ 2-16-71.2. Entry upon farm or ranch lands for recreational purposes--Duty of owner

Except as specifically recognized by or provided in Section 16-71.5 of this title, an owner who provides the public with land for recreational purposes which is used primarily for farming or ranching activities owes no duty of care to keep the land safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, or activity on such land to persons entering or using the land for such purposes.

§ 2-16-71.3. Entry upon or use of land for recreational purposes--Liability of owner--Applicability of section to state or other governmental unit

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

1. Extend any assurance that the premises are safe for any purpose;
2. Incur any duty of care toward a person who enters or uses the land; or
3. Assume responsibility or incur liability for any injury to person or property caused by an act or omission of such persons.

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

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

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

§ 2-16-71.4. Applicability of Sections 16-71.2 and 16-71.3 to duties and liability of owner

Unless otherwise agreed in writing, the provisions of Sections 16-71.2 and 16-71.3 of this title shall be deemed applicable to the duties and liability of an owner of land which is used primarily for farming or ranching activities, is on or adjoins land entered upon the National Register of Historic Places and for which an easement



has been granted to the Oklahoma Historical Society, or is leased to the state or any subdivision thereof for recreational purposes.

§ 2-16-71.5. Liability not limited by Act

Nothing in the Oklahoma Limitation of Liability for Farming and Ranching Land Act limits in any way any liability which otherwise exists for want of ordinary care or for deliberate, willful, or malicious injury or failure to guard or warn against a dangerous or hazardous condition, use, structure, or activity.

§ 2-16-71.6. Duty of care or ground of liability not created -- Persons entering or using lands not relieved of duty of care -- Release or waiver binding

A. Nothing in the Oklahoma Limitation of Liability for Farming and Ranching Land Act shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property; or
2. Relieve any person entering or using the land of another for recreational purposes from any obligation which such person may have in the absence of the Oklahoma Limitation of Liability for Farming and Ranching Land Act to exercise care in the use of such land and in the activities thereon, or from the legal consequences of failure to employ such care.

B.

1. No person who has executed a written release of liability or a waiver to sue may maintain an action against or recover damages from a land owner in contravention of the release or waiver for any personal injury or injury to property. The terms of the executed release or waiver shall be binding upon the person signing the document. The provisions of this subsection shall apply regardless of the amount charged per acre for a recreational activity.
2. A release or waiver executed pursuant to this subsection shall not limit the liability of a land owner for willful or wanton acts of negligence or gross negligence.

§ 74-3458. Limitation of liability of owners of land used for recreational purposes

No person or corporation, or their successors in interest, who has granted a right-of-way or easement across his land to the Commission for use in the state trails system shall be liable to any user of the trail for injuries suffered on said right-of-way or easement unless the injuries are caused by the willful or wanton misconduct of the grantor.



§ 76-10.1. Landowners encouraged to make land available to public for recreational purposes--Limitation on liability--Definitions--Applicability of section to land and attached roads, water and structures used primarily for farming or ranching activities

A.

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

2. As used in this section:

a. “land” means real property, roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty,

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

c. “owner” means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the land,

d. “charge” means the admission price or fee asked in return for invitation or permission to enter or go upon the land. The term “charge” shall not include:

(1) a license or permit fee imposed by a governmental entity for the purpose of regulating the use of land, a water or park area, or lake reservation,

(2) hunting, fishing, boating, and other license and permit fees,

(3) hunting or fishing leases, or

(4) donations made at fly-ins at non-public-use airports, and

e. “non-public-use airport” means an airport that is primarily used by the owner with access to the public as permitted by the owner.

B. An owner who provides the public with land for outdoor recreational purposes owes no duty of care to keep the land safe for entry or use by others, or to give



warning to persons entering or using the land of any hazardous conditions, structures, or activities.

C.

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

- a. be presumed to extend any assurance that the land is safe for any purpose,
- b. incur any duty of care toward a person who enters or uses the land, or
- c. assume any liability or responsibility for any injury to persons or property caused by the act or omission of a person who enters or uses the land.

2. This subsection applies whether the person entering or using the land is an invitee, licensee, trespasser, or otherwise.

D. This section shall not apply if:

1. Any charge is made or is usually made for entering or using any part of the land; or
2. Any commercial or other activity for profit directly related to the use is conducted on any part of the land.

E.

1. An owner of land leased to the state or to other public entity for outdoor recreational purposes owes no duty of care to keep the land safe for entry or use by others, or to give warning to persons entering or using the land of any hazardous conditions, structures, or activities. Any owner who leases or subleases land to the state or other public entity for outdoor recreational purposes shall not:

- a. be presumed to extend any assurance that the land is safe for any purpose,
- b. incur any duty of care toward a person who enters or uses the leased land, or
- c. become liable or responsible for any injury to persons or property caused by the act or omission of a person who enters or uses the leased land.



2. This subsection applies whether the person entering or using the leased land is an invitee, licensee, trespasser, or otherwise, notwithstanding any other section of law.

F.

1. Except as provided in this section, no person is relieved of liability which would exist for want of ordinary care or for deliberate, willful, or malicious injury to persons or property. The provisions shall not create or increase the liability of any person.

2. This section shall not relieve any owner of any liability for the operation and maintenance of structures affixed to real property by the owner for use by the general public.

G. By entering or using land, no person shall be deemed to be acting as an employee or agent of the owner whether the entry or use is with or without the knowledge or consent of the owner.

H. The provisions of this section shall not apply to any land that is used primarily for farming or ranching activities or to roads, water, watercourses, private ways, buildings, structures, and machinery or equipment when attached to realty which is used primarily for farming or ranching activities.

The Oklahoma Limitation of Liability for Farming and Ranching Land Act shall govern such land.

