

Recreational Use Statutes

All states in the USA have recreational use statutes that immunize landowners from liability when they allow the public to enter their land for recreational activities. Few states, however, expressly set forth airstrips and associated aircraft operations as a form of recreational activity. While the laws are similar in many respects, states differ in terms of the type of land protected, whether the land needs to be suitable for recreation, and the types of individuals and organizations that may qualify as landowners. States also vary with regard to the recreational activities covered and whether landowners need to give permission for the public to engage in those activities in order to receive protection. If landowners impose charges on the users, the laws may no longer protect the owners. Questions arise over the duty of care and whether the owner acted willfully or maliciously in endangering users. The variety of questions raised indicates that pilots and airstrip owners in the various states would benefit from a thorough review and possible revision of their recreational use statutes to ascertain if aviation activities are specifically included within the provisions of their states' recreational use statute.

What is a Recreational Use Statute?

"Recreational Use Statute" is a term given to legislation generally intended to promote public recreational use of privately owned land. The statute does this by granting landowners some protection from liability for personal injuries or property damage suffered by land users pursuing recreational activities on the owner's land. The underlying policy of a Recreational Use Statute is that the public's need for recreational land has outpaced the ability of local, state, and federal governments to provide such areas and that owners of large acreages of land should be encouraged to help meet this need. Changes in lifestyle and the environment during the last few decades further support this rationale. These changes include increases in the material wealth and leisure time of urban residents enabling them to spend more time on recreation, a decline in the amount of public recreational space available to urban residents, an increased awareness of the health and fitness benefits of recreation, a desire to provide the public with opportunities to enjoy the benefits of modern environmental control, and a response to increased private tort litigation of recreational accidents.

How does a Recreational Use Statute work?

Generally speaking, a Recreational Use Statute (R.U.S.) provides that a landowner owes, to one using his or her property for recreational purposes and without charge, neither a duty of care to keep the property safe for entry or use, nor a duty to give any warning of a dangerous condition, use, structure, or activity on the property. Under prior common law (law made by court rulings), the landowner had different duties of care depending on whether a person was on the land as an invitee, licensee, or a trespasser. The greatest duty of care was owed to an invitee and no duty was owed to an unknown, adult trespasser. Under an R.U.S., recreational users are treated in the same manner as trespassers and thus the landowner owes them no duty of care. **The protection of the statute is lost, however, if the landowner charges for the use of the land or if the landowner is guilty of malicious conduct.**

When is a landowner protected by a Recreational Use Statute?

The principal question addressed by courts in personal injury and wrongful death litigation where a R.U.S. is in effect is whether the statute applied under the facts that existed at the time of injury or death. If the facts are determined to be outside of the statute, liability will be determined in accordance with principles of state common law. For instance, if the court determines that the landowner didn't qualify as an "owner" defined by the statute (*see below*), the facts would be considered to be outside of the protection of the statute. Each state's R.U.S. was drafted with conditions specific to that state in mind. Therefore, landowner liability can vary greatly from state to state. Furthermore, judicial interpretations of the various statutes differ greatly such that similar statutes may yield very different results when tested in court. It is therefore very important to check your state's R.U.S. to see how much protection it offers and how the state court has interpreted it. A Recreational Use Statute acts as a deterrent to lawsuits, not total protection against lawsuits.

Who qualifies as a "landowner" under a Recreational Use Statute?

In order to be protected under a Recreational Use Statute, a person must qualify as an "owner" under the statute. **Most Recreational Use Statutes broadly define "owner" to include the legal owner of the land, a tenant, lessee, occupant or person in control of the premises.** Some statutes also consider the holder of an easement an "owner." A very important issue is whether or not a public entity or municipality qualifies as an "owner" under the state's Recreational Use Statute. Some statutes specifically include public entities in the definition of "owner" (e.g. Alabama, Illinois, Ohio) while others specifically exclude them (e.g. Florida, Iowa, Minnesota). Still others are silent on the issue and have left it to the courts to decide. **Thus, in the states that include public entities as "owners" under their R.U.S., public land falls within the protection of the statute.**

What type of land falls within the scope of the statute?

Most Recreational Use Statutes apply broadly to land and water areas as well as to buildings, structures, and machinery or equipment on the land. Again, each state will vary in how broad the statute and its interpretation will go with respect to what constitutes "premises" covered by the statute. Some states will follow closely the intent of the statute and include only those lands amenable to recreational use (for example, under Louisiana's R.U.S., the land must be an undeveloped, nonresidential rural or semi-rural land area in order to fall within the protection of the statute), while others will make a much broader interpretation and only consider whether a recreational activity had taken place on the land, regardless of how suitable that land was for recreational use (e.g. California, Connecticut).

What activity, use or purpose qualifies as "recreational?"

Many Recreational Use Statutes include, in the text of the statute, a definition of "recreational use" or "recreational purpose." These definitions usually include a list of activities such as hiking, swimming, fishing, pleasure driving, nature study, etc. The phrase "includes, but is not limited to" also appears in order to prevent a narrow interpretation of what constitutes a "recreational use." Some courts, however, limit the definition to only those activities that can be pursued outdoors (e.g. Louisiana, Washington). Presumably, mountain bicycling would be considered a "recreational use"

of land by most courts even if it is not specifically listed in the definition of "recreational use" or "recreational activity." However, it would be advisable to not rely on the courts to determine if a particular recreational activity is covered under the R.U.S. Therefore, airstrips and their associated aviation activities should be enumerated in the statute.

Limitations of a Recreational Use Statute

Generally, the liability protection of a recreational use statute is **lost** if the landowner **charges for the use of the land** or if the landowner is guilty of **malicious conduct**, like purposely placing an obstacle on the runway.

Summary

It would behoove airstrip owners and pilots to research their respective state's R.U. S. to determine its current efficacy in protecting the landowner as well as determining if the R.U.S. would include aviation related activities.

50 STATE SURVEY of respective recreational use statutes (2006)

Below is a list of all the definitions of recreational uses by state in alphabetical order.

ALABAMA

Ala.Code 1975 § 35-15-21

§ 35-15-21 Definitions.

(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.

ALASKA

Title 9. Code of Civil Procedure.

Chapter 65. Actions, Immunities, Defenses, and Duties.

ARIZONA

A.R.S. § 33-1551

§ 33-1551. Duty of owner, lessee or occupant of premises to recreational or educational users; liability; definitions

4. "Recreational user" means a person to whom permission has been granted or implied without the payment of an admission fee or any other consideration to travel across or to enter upon premises to hunt, fish, trap, camp, hike, ride, exercise, swim or engage in similar pursuits. The purchase of a state hunting, trapping or fishing license is not the payment of an admission fee or any other consideration as provided in this section. A nominal fee that is charged by a public entity or a nonprofit corporation to offset the cost

of providing the educational or recreational premises and associated services does not constitute an admission fee or any other consideration as prescribed by this section.

ARKANSAS

A.C.A. § 18-11-302

§ 18-11-302. Definitions

(5) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof:

(A) Hunting; (B) Fishing; (C) Swimming; (D) Boating; (E) Camping; (F) Picnicking;

(G) Hiking; (H) Pleasure driving; (I) Nature study; (J) Water skiing; (K) Winter sports;

(L) Spelunking;

(M) Viewing or enjoying historical, archeological, scenic, or scientific sites; and

(N) Any other activity undertaken for exercise, education, relaxation, or pleasure on land owned by another.

CALIFORNIA

West's Ann.Cal.Civ.Code § 846

§ 846. Permission to enter for recreational purposes

A "recreational purpose," as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

COLORADO

C.R.S.A. § 33-41-102

§ 33-41-102. Definitions

(5) "Recreational purpose" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by a person while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant thereto, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Hunting, fishing, camping, picnicking, hiking, horseback riding, snowshoeing, cross country skiing, bicycling, riding or driving motorized recreational vehicles, swimming, tubing, diving, spelunking, sight seeing, exploring, hang gliding, rock climbing, kite flying, roller skating, bird watching, gold panning, target shooting, ice

skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity.

CONNECTICUT

Conn. Gen. Stat. § 52-557 f

§ 52-557f. Landowner liability for recreational use of land. Definitions

(4) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, snow skiing, ice skating, sledding, hang gliding, sport parachuting, hot air ballooning and viewing or enjoying historical, archaeological, scenic or scientific sites.

DELAWARE

7 Del.C. § 5902

§ 5902. Definitions

(3) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic or scientific sites.

FLORIDA

West's F.S.A. § 375.251

§ 375.251. Limitation on liability of persons making available to public certain areas for recreational purposes without charge

(5) The term "outdoor recreational purposes" as used in this act shall include, but not necessarily be limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, and visiting historical, archaeological, scenic, or scientific sites.

GEORGIA

Ga. Code Ann. § 51-3-21

§ 51-3-21. Definitions

(4) "Recreational purpose" includes, but is not limited to, any of the following or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archeological, scenic, or scientific sites.

HAWAII

HRS § 520-2

§ 520-2 Definitions.

"Recreational purpose" includes but is not limited to any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

IDAHO Aviation is now included

I.C. § 36-1604

§ 36-1604. Limitation of liability of landowner

"Recreational purposes" includes, but is not limited to, any of the following activities or any combination thereof: hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, the flying of aircraft, bicycling, running, playing on playground equipment, skateboarding, athletic competition, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.

ILLINOIS

745 ILCS 65/2

§ 2. As used in this Act, unless the context otherwise requires:

(c) "Recreational or conservation purpose" means entry onto the land of another to conduct hunting or recreational shooting or a combination thereof or any activity solely related to the aforesaid hunting or recreational shooting.

INDIANA

IC 14-22-10-2

§ 14-22-10-2 Restrictions on land-owner liability to recreational users

(d) A person who goes upon or through the premises, including caves, of another:

(1) with or without permission; and

(2) either: (A) without the payment of monetary consideration; or

(B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government; for the purpose of swimming, camping, hiking, sightseeing, or any other purpose (other than the purposes

described in section 2.5 of this chapter) does not have an assurance that the premises are safe for the purpose.

IOWA

I.C.A. § 461C.2

461C.2. Definitions

4. "Recreational purpose" means the following or any combination thereof: Hunting, trapping, horseback riding, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycling, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites while going to and from or actually engaged therein.

KANSAS

K.S.A. § 58-3202

58-3202. Limiting liability of property owners to persons entering premises for recreational purposes; definitions.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

KENTUCKY

KRS § 411.190

411.190 Obligations of owner to persons using land for recreation

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, horseback riding, pleasure driving, nature study, water-skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites; and

LOUISIANA

LSA-R.S. 9:2795

§ 2795. Limitation of liability of landowner of property used for recreational purposes; property owned by the Department of Wildlife and Fisheries; parks owned by public entities

(3) "Recreational purposes" includes but is not limited to any of the following, or any combination thereof: hunting, fishing, trapping, swimming, boating, camping, picnicking, hiking, horseback riding, bicycle riding, motorized, or non-motorized vehicle operation for recreation purposes, nature study, water skiing, ice skating, roller skating, roller

Chapter 61B. Classification and Taxation of Recreational Land

§ 1. Recreational land and uses

For the purpose of this chapter, the term recreational use shall be limited to the following: hiking, camping, nature study and observation, boating, golfing, non-commercial youth soccer, horseback riding, hunting, fishing, skiing, swimming, picnicking, private non-commercial flying, including hang gliding, archery and target shooting.

Such recreational use shall not include horse racing, dog racing, or any sport normally undertaken in a stadium, gymnasium or similar structure.

MICHIGAN

M.C.L.A. 324.73301

324.73301. Liability of landowners for injuries to guests; gross negligence; willful and wanton misconduct; cause of action; definitions

(1) Except as otherwise provided in this section, a cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

MINNESOTA

M.S.A. § 604A.21

§ 604A.21. Recreational land use; definitions

Subd. 5. Recreational purpose. "Recreational purpose" includes, but is not limited to, hunting; trapping; fishing; swimming; boating; camping; picnicking; hiking; rock climbing; cave exploring; bicycling; horseback riding; firewood gathering; pleasure driving, including snowmobiling and the operation of any motorized vehicle or conveyance upon a road or upon or across land in any manner, including recreational trail use; nature study; water skiing; winter sports; and viewing or enjoying historical, archaeological, scenic, or scientific sites. "Rock climbing" means the climbing of a naturally exposed rock face. "Cave exploring" means the planned exploration of naturally occurring cavities in rock, including passage through any structures placed for the purpose of safe access, access control, or conservation, but does not include the exploration of other manmade cavities such as tunnels, mines, and sewers.

MISSISSIPPI

Miss. Code Ann. § 89-2-3

§ 89-2-3. Definition

The term "outdoor recreational purposes" as used in this chapter shall include, but not necessarily be limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing and visiting historical, archaeological, scenic or scientific sites.

MISSOURI

V.A.M.S. 537.345

537.345. Definitions for sections 537.345 to 537.347

(4) "Recreational use", hunting, fishing, camping, picnicking, biking, nature study, winter sports, viewing or enjoying archaeological or scenic sites, or other similar activities undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another.

MONTANA

Aviation is now included

MCA 70-16-301

§ 70-16-301. Recreational purposes defined

"Recreational purposes", as used in this part, includes hunting, fishing, swimming, boating, waterskiing, camping, picnicking, pleasure driving, biking, winter sports, hiking, touring or viewing cultural and historical sites and monuments, spelunking, or other pleasure expeditions. The term includes the private, non-commercial flying of aircraft in relation to private land.

NEBRASKA

Neb.Rev.St. § 37-729

§ 37-729. Terms, defined.

(3) Recreational purposes includes, but is not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, waterskiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, or otherwise using land for purposes of the user;

NEVADA

N.R.S. 41.510

41.510. Limitation of liability; exceptions for malicious acts if consideration is given or other duty exists

4. As used in this section, "recreational activity" includes, but is not limited to:

(a) Hunting, fishing or trapping; (b) Camping, hiking or picnicking;

- (c) Sightseeing or viewing or enjoying archaeological, scenic, natural or scientific sites;
- (d) Hang gliding or para-gliding; (e) Spelunking; (f) Collecting rocks;
- (g) Participation in winter sports, including riding a snowmobile, or water sports;
- (h) Riding animals or in vehicles; (i) Studying nature; (j) Gleaning;
- (k) Recreational gardening; and (l) Crossing over to public land or land dedicated for public use.

NEW HAMPSHIRE

N.H. Rev. Stat. § 212:34

212:34 Duty of Care.

I. An owner, lessee or occupant of premises owes no duty of care to keep such premises safe for entry or use by others for hunting, fishing, trapping, camping, horseback riding, water sports, winter sports, snowmobiling, or OHRVs as defined in RSA 215 A, hiking, sightseeing, or removal of fuel wood, or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purposes, except as provided in paragraph III hereof.

Also, see: NEW HAMPSHIRE AERONAUTICS ACT Section 422:12

NEW JERSEY

N.J.S.A. 2A:42A-2

2A:42A 2. Sport and recreational activities; definitions

As used in this act "sport and recreational activities" means and includes: hunting, fishing, trapping, horseback riding, training of dogs, hiking, camping, picnicking, swimming, skating, skiing, sledding, tobogganing, operating or riding snowmobiles, all terrain vehicles or dirt bikes, and any other outdoor sport, game and recreational activity including practice and instruction in any thereof. For purposes of P.L.1968, c. 73 (C. 2A:42A 2 et seq.) "all terrain vehicle" means a motor vehicle, designed to travel over any terrain, of a type possessing between three and six rubber tires and powered by a gasoline engine not exceeding 600 cubic centimeters, but shall not include golf carts; "snowmobile" means any motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment, or any military vehicle; "dirt bike" means a motor powered vehicle possessing two or more tires, designed to travel over any terrain and capable of traveling off of paved roads, whether or not such vehicle is subject to registration with the Division of Motor Vehicles.

NEW MEXICO

N. M. S. A. 1978, § 17-4-7

§ 17-4-7 Liability of landowner permitting persons to hunt, fish or use lands for recreation; duty of care; exceptions

A. Any owner, lessee or person in control of lands who, without charge or other consideration, other than a consideration paid to said landowner by the state, the federal government or any other governmental agency, grants permission to any person or group to use his lands for the purpose of hunting, fishing, trapping, camping, hiking, sightseeing or any other recreational use...

NEW YORK

McKinney's General Obligations Law § 9-103

§ 9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy one y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

NORTH CAROLINA

N.C.G.S.A. § 38A-2

§ 38A-2. Definitions

(5) "Recreational purpose" means any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or pleasure.

NORTH DAKOTA

NDCC, 53-08-01

§ 53-08-01 Definitions.

4. "Recreational purposes" includes any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

OHIO

R.C. § 1533.18

§ 1533.18 Premises, recreational user, all purpose vehicle defined

(B) "Recreational user" means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all purpose vehicle, or engage in other recreational pursuits.

OKLAHOMA

76 Okl.St. Ann. § 10.1

§ 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

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, and viewing or enjoying historical, archaeological, scenic, or scientific sites,

OREGON

O.R.S. § 105.682

§ 105.682. Limitation on liability of owner of land used by public for in certain cases

(1) Except as provided by subsection (2) of this section, and subject to the provisions of ORS 105.688, an owner of land is not liable in contract or tort for any personal injury, death or property damage that arises out of the use of the land for recreational purposes, woodcutting or the harvest of special forest products when the owner of land either directly or indirectly permits any person to use the land for recreational purposes, woodcutting or the harvest of special forest products. The limitation on liability provided by this section applies if the principal purpose for entry upon the land is for recreational purposes, woodcutting or the harvest of special forest products, and is not affected if the injury, death or damage occurs while the person entering land is engaging in activities other than the use of the land for recreational purposes, woodcutting or the harvest of special forest products.

PENNSYLVANIA

68 P.S. § 477-2

§ 477-2. Definitions

(3) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, water sports, cave exploration and viewing or enjoying historical, archaeological, scenic, or scientific sites.

RHODE ISLAND

Gen.Laws 1956, § 32-6-2

32-6-2. Definitions.

(4) "Recreational purposes" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, horseback riding, bicycling, pleasure driving, nature study, water skiing, water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, and all other recreational purposes contemplated by this chapter;

SOUTH CAROLINA

Code 1976 § 27-3-20

§ 27-3-20. Definitions.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, summer and winter sports and viewing or enjoying historical, archaeological, scenic, or scientific sites.

SOUTH DAKOTA

SDCL § 20-9-12

§ 20-9-12. Definition of terms

(3) "Outdoor recreational purpose," includes, but is not limited to, any of the following activities, or any combination thereof: hunting, fishing, swimming other than in a swimming pool, boating, canoeing, camping, picnicking, hiking, biking, off road driving, nature study, water skiing, winter sports, snowmobiling, viewing, or enjoying historical, archaeological, scenic, or scientific sites;

TENNESSEE

T. C. A. § 70-7-103

§ 70-7-103. Landowners; permission; duty of care

Any landowner, lessee, occupant, or any person in control of the land or premises or such person's agent who gives permission to another person to hunt, fish, trap, camp, engage in water sports, participate in white water rafting or canoeing, hike, sightsee, ride animals, bird watch, train dogs, boat, cave, pick fruit and vegetables for the participant's own benefit, engage in nature and historical studies and research, climb rocks, shoot skeet and trap, ski, ride off road vehicles, and cut and remove wood for the participant's own use upon such land or premises does not by giving such permission

TEXAS

V.T.C.A., Civil Practice & Remedies Code § 75.001

§ 75.001. Definitions

(3) "Recreation" means an activity such as: (A) hunting; (B) fishing; (C) swimming; (D) boating; (E) camping; (F) picnicking; (G) hiking; (H) pleasure driving, including off road motorcycling and off road automobile driving and the use of all terrain vehicles; (I) nature study, including bird watching; (J) cave exploration; (K) waterskiing and other water sports; (L) any other activity associated with enjoying nature or the outdoors; (M) bicycling and mountain biking; (N) disc golf; or (O) on leash and off leash walking of dogs.

UTAH

U.C.A. 1953 § 57-14-2

§ 57-14-2. Definitions

(3) "Recreational purpose" includes, but is not limited to, any of the following or any combination thereof:

(a) hunting; (b) fishing; (c) swimming; (d) skiing; (e) snowshoeing; (f) camping; (g) picnicking; (h) hiking; (i) studying nature; (j) waterskiing; (k) engaging in water sports; (l) engaging in equestrian activities; (m) using boats; (n) mountain biking; (o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch gauge; (p) using off highway vehicles or recreational vehicles; and (q) viewing or enjoying historical, archaeological, scenic, or scientific sites.

VERMONT

12 V.S.A. § 5792

§ 5792 Definitions

(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.

VIRGINIA

Va. Code Ann. § 29.1-509

§ 29.1-509. Duty of care and liability for damages of landowners to hunters, fishermen, sightseers, etc.

B. A landowner shall owe no duty of care to keep land or premises safe for entry or use by others for hunting, fishing, trapping, camping, participation in water sports, boating, hiking, rock climbing, sightseeing, hang gliding, skydiving, horseback riding, foxhunting, racing, bicycle riding or collecting, gathering, cutting or removing firewood, for any other recreational use, or for use of an easement granted to the Commonwealth or any agency thereof to permit public passage across such land for access to a public park, historic site, or other public recreational area. No landowner shall be required to give any warning of hazardous conditions or uses of, structures on, or activities on such land or premises to any person entering on the land or premises for such purposes, except as provided in subsection D.

WASHINGTON

West's RCWA 4.24.210

4.24.210. Liability of owners or others in possession of land and water areas for injuries to recreation users--Limitation

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other non-motorized wheel-based activities, hang-gliding, paragliding, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefore, shall not be liable for unintentional injuries to such users.

WEST VIRGINIA

W. Va. Code, § 19-25-5

§ 19-25-5. Definitions

(5) "Recreational purposes" includes, but shall not be limited to, any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycle or all terrain vehicle riding, bicycling, horseback riding, nature study, water skiing, winter sports and visiting, viewing or enjoying historical, archaeological, scenic or scientific sites or otherwise using land for purposes of the user;

WISCONSIN

W.S.A. 895.52

§ 895.52. Recreational activities; limitation of property owners' liability

(g) "Recreational activity" means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird watching, motorcycling, operating an all terrain vehicle, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight seeing, rock climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting and any other outdoor sport, game or educational activity. "Recreational activity" does not include any organized team sport activity sponsored by the owner of the property on which the activity takes place.

WYOMING

W.S.1977 § 34-19-101

§ 34-19-101 Definitions.

(iii) "Recreational purpose" includes, but is not limited to, any one (1) or more of the following: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports and viewing or enjoying historical, archaeological, scenic or scientific sites;

END OF ANALYSIS

SUMMARY

At the time of this posting, January, 2010, there appears to be only four states (Idaho, Maine, Massachusetts and Montana) that specifically enumerate aviation activities in their respective recreational use statutes. New Hampshire addresses the issue in a separate statute within their Aeronautics Act. More detailed information on the twelve western states is available upon request from the Recreational Aviation Foundation.

There is variation among the fifty states as to the efficacy of each recreational use statute in its ability to deter law suits. In whatever state you are interested in, you must research the cases that have been filed that involved the recreational use statute and the resulting outcome.