

1                                   **LIMITATION OF LANDOWNER LIABILITY**  
2                                   **FOR PUBLIC RECREATION**

3                                   2005 GENERAL SESSION  
4                                   STATE OF UTAH

5                                   **Sponsor: Gregory S. Bell**

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies the Real Estate Code by amending provisions related to the limitation  
10 of landowner liability for certain public recreation.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ amends the definition of land to include railway corridors as land covered under the  
14 limitation of landowner liability for public recreation provisions;

15           ▶ amends the definition of recreational purpose to include:

- 16                   • engaging in equestrian activities; and  
17                   • riding certain rail cars ~~§ [or other recreational rail conveyances]~~ ON A NARROW

17a **GAUGE TRACK § ;**

18           ▶ provides that the state or a subdivision of the state is not considered to have charged  
19 an admission fee for use of a railway corridor if the state or a political subdivision  
20 of the state owns the railway corridor, allows recreational use of the corridor, and  
21 does not charge a fee for that use, even if the user pays a fee to travel on a privately  
22 owned rail car ~~§ [or other recreational conveyance]~~ § that crosses over the railway  
23 corridor; and

24           ▶ makes technical changes.

25 **Monies Appropriated in this Bill:**

26           None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **57-14-2**, as last amended by Chapter 62, Laws of Utah 1997

32 **57-14-6**, as last amended by Chapters 32, 62 and 258, Laws of Utah 1997



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **57-14-2** is amended to read:

36 **57-14-2. Definitions.**

37 As used in this chapter:

38 (1) (a) "Land" means any land within the territorial limits of [~~the state of~~] Utah [~~and~~].

39 (b) "Land" includes roads, railway corridors, water, water courses, private ways and  
40 buildings, structures, and machinery or equipment when attached to the realty.

41 (2) "Owner" includes the possessor of any interest in the land, whether public or  
42 private land, a tenant, a lessor, a lessee, and an occupant or person in control of the premises.

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

45 (a) hunting[-];

46 (b) fishing[-];

47 (c) swimming[-];

48 (d) skiing[-];

49 (e) snowshoeing[-];

50 (f) camping[-];

51 (g) picnicking[-];

52 (h) hiking[-];

53 (i) studying nature[-];

54 (j) waterskiing[-];

55 (k) engaging in water sports[-];

56 (l) engaging in equestrian activities;

57 (m) using boats[-];

58 (n) mountain biking[-];

59            (o) riding narrow gauge rail cars § [or other recreational rail conveyances] ON A NARROW  
 59a GAUGE TRACK THAT DOES NOT EXCEED 24 INCH GAUGE § :

60            (p) using off-highway vehicles or recreational vehicles[-]; and

61            (q) viewing or enjoying historical, archaeological, scenic, or scientific sites.

62            (4) "Charge" means the admission price or fee asked in return for permission to enter  
 63 or go upon the land.

64            (5) "Person" includes any person, regardless of age, maturity, or experience, who enters  
 65 upon or uses land for recreational purposes.

66            Section 2. Section **57-14-6** is amended to read:

67            **57-14-6. Liability not limited where willful or malicious conduct involved or**  
 68 **admission fee charged.**

69            (1) Nothing in this [æct] chapter shall limit any liability which otherwise exists for:

70            (a) willful or malicious failure to guard or warn against a dangerous condition, use,  
 71 structure, or activity;

72            (b) deliberate, willful, or malicious injury to persons or property; or

73            (c) an injury suffered where the owner of land charges a person to enter or go on the  
 74 land or use the land for any recreational purpose[~~,-except~~].

75            (2) For purposes of Subsection (1)(c), if the land is leased to the state or a subdivision  
 76 of the state, any consideration received by the owner for the lease is not a charge within the  
 77 meaning of this section.

78            [~~(2)~~] (3) Any person who hunts upon a cooperative wildlife management unit, as  
 79 authorized by Title 23, Chapter 23, Cooperative Wildlife Management Units, is not considered  
 80 to have paid a fee within the meaning of this section.

81            [~~(3)~~] (4) Owners of a dam or reservoir who allow recreational use of the dam or  
 82 reservoir and its surrounding area and do not themselves charge a fee for that use, are  
 83 considered not to have charged for that use within the meaning of Subsection (1)(c), even if the  
 84 user pays a fee to the Division of Parks and Recreation for the use of the services and facilities  
 85 at that dam or reservoir.

86            (5) The state or a subdivision of the state that owns property purchased for a railway  
 87 corridor is considered not to have charged for use of the railway corridor within the meaning of  
 88 Subsection (1)(c), even if the user pays a fee for travel on a privately owned rail car § [or other  
 89 recreational rail conveyance] § that crosses or travels over the railway corridor if the state or a

90 subdivision of the state:

91 (a) allows recreational use of the railway corridor and its surrounding area; and

92 (b) does not charge a fee for that use.

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**Legislative Review Note**

**as of 12-14-04 4:33 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0032**

**Limitation of Landowner Liability for Public Recreation**

*12-Jan-05*

*3:49 PM*

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**State Impact**

Costs of implementing this bill can be handled within existing budgets.

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**Individual and Business Impact**

No fiscal impact

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**Office of the Legislative Fiscal Analyst**