

**LIMITATION OF LANDOWNER LIABILITY
FOR PUBLIC RECREATION**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Gregory S. Bell

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ amends the definition of land to include railway corridors as land covered under the limitation of landowner liability for public recreation provisions;
- ▶ amends the definition of recreational purpose to include:
 - engaging in equestrian activities; and
 - riding certain rail cars on a narrow gauge track;
- ▶ provides that the state or a subdivision of the state is not considered to have charged an admission fee for use of a railway corridor if the state or a political subdivision of the state owns the railway corridor, allows recreational use of the corridor, and does not charge a fee for that use, even if the user pays a fee to travel on a privately owned rail car that crosses over the railway corridor; and
 - ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

57-14-2. Definitions.

As used in this chapter:

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

- (a) allows recreational use of the railway corridor and its surrounding area; and
- (b) does not charge a fee for that use.