

LIMITATIONS ON LANDOWNER LIABILITY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends and enacts provisions related to landowner liability in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends the liability of landowners in certain circumstances involving an activity with a recreational purpose;
- ▶ limits the available noneconomic damages in a claim against a landowner; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-14-102, as last amended by Laws of Utah 2013, Chapter 278 and renumbered and amended by Laws of Utah 2013, Chapter 212

57-14-401, as enacted by Laws of Utah 2013, Chapter 212

ENACTS:



28 **57-14-501**, Utah Code Annotated 1953

29

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

31 Section 1. Section **57-14-102** is amended to read:

32 **57-14-102. Definitions.**

33 As used in this chapter:

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

36 (2) "Child" means an individual who is 16 years of age or younger.

37 [~~(3)~~] "Inherent risks" means those dangers, conditions, and potentials for personal injury
38 or property damage that are an integral and natural part of participating in an activity for a
39 recreational purpose.]

40 [~~(4)~~] (3) (a) "Land" means any land within the state boundaries.

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

43 [~~(5)~~] (4) "Owner" means the possessor of any interest in the land, whether public or
44 private land, including a tenant, a lessor, a lessee, an occupant, or person in control of the land.

45 [~~(6)~~] (5) "Person" includes any person, regardless of age, maturity, or experience, who
46 enters upon or uses land for recreational purposes.

47 [~~(7)~~] (6) "Recreational purpose" includes, but is not limited to, any of the following or
48 any combination thereof:

- 49 (a) hunting;
- 50 (b) fishing;
- 51 (c) swimming;
- 52 (d) skiing;
- 53 (e) snowshoeing;
- 54 (f) camping;
- 55 (g) picnicking;
- 56 (h) hiking;
- 57 (i) studying nature;
- 58 (j) waterskiing;

- 59 (k) engaging in water sports;
- 60 (l) engaging in equestrian activities;
- 61 (m) using boats;
- 62 (n) mountain biking;
- 63 (o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch
- 64 gauge;
- 65 (p) using off-highway vehicles or recreational vehicles;
- 66 (q) viewing or enjoying historical, archaeological, scenic, or scientific sites;
- 67 (r) aircraft operations; and
- 68 (s) equestrian activity, skateboarding, skydiving, paragliding, hang gliding, roller
- 69 skating, ice skating, walking, running, jogging, bike riding, or in-line skating.

70 ~~[(8)]~~ (7) "Serious physical injury" means any physical injury or set of physical injuries
 71 that:

- 72 (a) seriously impairs a person's health;
- 73 (b) was caused by use of a dangerous weapon as defined in Section 76-1-601;
- 74 (c) involves physical torture or causes serious emotional harm to a person; or
- 75 (d) creates a reasonable risk of death.

76 ~~[(9)]~~ (8) "Trespasser" means a person who enters on the land of another without:

- 77 (a) express or implied permission; or
- 78 (b) invitation.

79 Section 2. Section 57-14-401 is amended to read:

80 **Part 4. Activities with a Recreational Purpose on Certain Lands**

81 **57-14-401. Activities with a recreational purpose on certain lands.**

82 (1) Notwithstanding Section 57-14-202 to the contrary, a person may not make a claim
 83 against or recover from an owner of any land, ~~[as defined in this chapter,]~~ including land in
 84 developed or improved, urban or semi-rural areas opened to the general public without charge,
 85 such as a lake, pond, park, trail, waterway, or other recreation site, for personal injury or
 86 property damage caused ~~[by the inherent risks of]~~ either directly or indirectly by participating in
 87 an activity with a recreational purpose on the land.

88 (2) Nothing in this section may be construed to relieve a person participating in a
 89 recreational purpose from an obligation that the person would have in the absence of this

90 section to exercise due care or from the legal consequences of a failure to exercise due care.

91 Section 3. Section **57-14-501** is enacted to read:

92 **Part 5. Limitation on Award**

93 **57-14-501. Limitation of award of noneconomic damages.**

94 (1) ~~§~~ ~~(a)~~ ~~↔~~ In an action arising on or after May 14, 2019, against an owner of land for
94a an

95 injury to a person or damage to property, ~~§~~ ~~[the plaintiff may recover]~~ if a plaintiff is

95a awarded ~~↔~~ noneconomic losses ~~§~~ ~~[to~~

96 compensate for pain, suffering, and inconvenience.

97 ~~—(b) The~~ ~~,~~ ~~the~~ ~~↔~~ amount of ~~§~~ ~~[damages awarded]~~ the award ~~↔~~ for noneconomic

97a ~~§~~ ~~[loss]~~ losses ~~↔~~ may not exceed \$450,000.

98 (2) The limit described in Subsection (1) does not apply to:

99 (a) an award of punitive damages; ~~§~~ ~~[or]~~ ~~↔~~

100 (b) a claim for wrongful death ~~§~~ ~~[;]~~ ~~or~~

100a (c) a liability described in Subsection 57-14-204(1). ~~↔~~