

CHAPTER 53-08
LIABILITY LIMITED FOR OWNER OF RECREATION LANDS

53-08-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Charge" means the amount of money asked in return for an invitation to enter or go upon the land. "Charge" does not include vehicle, parking, shelter, or other similar fees required by any public entity.
2. "Commercial purpose" means a deliberative decision of an owner to invite or permit the use of the owner's property for normal business transactions, including the buying and selling of goods and services. The term includes any decision of an owner to invite members of the public onto the premises for recreational purposes as a means of encouraging business transactions or directly improving the owner's commercial activities other than through good will. "Commercial purpose" does not include the operation of public lands by a public entity except any direct activity for which there is a charge for goods or services.
3. "Land" includes all public and private land, roads, water, watercourses, and ways and buildings, structures, and machinery or equipment thereon.
4. "Owner" includes tenant, lessee, occupant, or person in control of the premises.
5. "Recreational purposes" includes any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

53-08-02. Duty of care of owner.

1. Subject to the provisions of section 53-08-05, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, regardless of the location and nature of the recreational purposes and whether the entry or use by others is for their own recreational purposes or is directly derived from the recreational purposes of other persons, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.
2. This section does not apply to:
 - a. A person that enters land to provide goods or services at the request of, and at the direction or under the control of, an owner; or
 - b. An owner engaged in a for-profit business venture that directly or indirectly invites members of the public onto the premises for commercial purposes or during normal periods of commercial activity in which members of the public are invited.

53-08-03. Not invitee or licensee of landowner.

Subject to the provisions of section 53-08-05, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose;
2. Confer upon such persons, or any other person whose presence on the premises is directly derived from those recreational purposes, the legal status of an invitee or licensee to whom a duty of care is owed other than a person that enters land to provide goods or services at the request of, and at the direction or under the control of, the owner; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

53-08-04. Leased land to state or political subdivisions.

Unless otherwise agreed in writing, an owner of land leased to the state or its political subdivisions for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or activities thereon. An owner who leases land to the state or its political subdivisions for recreational purposes does not by giving such lease:

1. Extend any assurance to any person using the land that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land.

The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser, or otherwise.

53-08-05. Failure to warn against dangerous conditions - Charge to enter.

This chapter does not limit in any way any liability that otherwise exists for:

1. Willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or
2. Injury suffered in any case in which the owner of land:
 - a. Charges the person for entry onto the land other than the amount, if any, paid to the owner of the land by the state; and
 - b. The total charges collected by the owner in the previous calendar year for all recreational use of land under the control of the owner are more than:
 - (1) Twice the total amount of property taxes imposed on the land for the previous calendar year; or
 - (2) In the case of agricultural land, four times the total amount of property taxes imposed on the land for the previous calendar year.

53-08-06. Duty of care or liability for injury.

Nothing in this chapter may be construed as creating a duty of care or grounds of liability for injury to person or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in that person's use of such land and in that person's activities thereon.