

CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 75. LIMITATION OF LANDOWNERS' LIABILITY

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2303](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 75.001. DEFINITIONS. In this chapter:

(1) "Agricultural land" means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed;

(B) forestry and the growing of trees for the purpose of rendering those trees into lumber, fiber, or other items used for industrial, commercial, or personal consumption; or

(C) domestic or native farm or ranch animals kept for use or profit.

(2) "Premises" includes land, roads, water, watercourse, private ways, and buildings, structures, machinery, and equipment attached to or located on the land, road, water, watercourse, or private way.

(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;

- (O) on-leash and off-leash walking of dogs; or
- (P) radio control flying and related activities.

(4) "Governmental unit" has the meaning assigned by Section [101.001](#).

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 62, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 736, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 520, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 56, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 116 (S.B. [1224](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 932 (H.B. [616](#)), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 659 (H.B. [1183](#)), Sec. 1, eff. June 15, 2007.

Sec. 75.002. LIABILITY LIMITED. (a) An owner, lessee, or occupant of agricultural land:

- (1) does not owe a duty of care to a trespasser on the land; and
- (2) is not liable for any injury to a trespasser on the land, except

for wilful or wanton acts or gross negligence by the owner, lessee, or other occupant of agricultural land.

(b) If an owner, lessee, or occupant of agricultural land gives permission to another or invites another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

- (1) assure that the premises are safe for that purpose;
- (2) owe to the person to whom permission is granted or to whom the invitation is extended a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted or to whom the invitation is extended.

(c) If an owner, lessee, or occupant of real property other than agricultural land gives permission to another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

- (1) assure that the premises are safe for that purpose;
- (2) owe to the person to whom permission is granted a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted.

(d) Subsections (a), (b), and (c) shall not limit the liability of an owner, lessee, or occupant of real property who has been grossly negligent or

has acted with malicious intent or in bad faith.

(e) In this section, "recreation" means, in addition to its meaning under Section 75.001, the following activities only if the activities take place on premises owned, operated, or maintained by a governmental unit for the purposes of those activities:

- (1) hockey and in-line hockey;
- (2) skating, in-line skating, roller-skating, skateboarding, and roller-blading;
- (3) soap box derby use; and
- (4) paintball use.

(f) Notwithstanding Subsections (b) and (c), if a person enters premises owned, operated, or maintained by a governmental unit and engages in recreation on those premises, the governmental unit does not owe to the person a greater degree of care than is owed to a trespasser on the premises.

(g) Any premises a governmental unit owns, operates, or maintains and on which the recreational activities described in Subsections (e)(1)-(4) are conducted shall post and maintain a clearly readable sign in a clearly visible location on or near the premises. The sign shall contain the following warning language:

WARNING

TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF A GOVERNMENTAL UNIT FOR DAMAGES ARISING DIRECTLY FROM HOCKEY, IN-LINE HOCKEY, SKATING, IN-LINE SKATING, ROLLER-SKATING, SKATEBOARDING, ROLLER-BLADING, PAINTBALL USE, OR SOAP BOX DERBY USE ON PREMISES THAT THE GOVERNMENTAL UNIT OWNS, OPERATES, OR MAINTAINS FOR THAT PURPOSE.

(h) An owner, lessee, or occupant of real property in this state is liable for trespass as a result of migration or transport of any air contaminant, as defined in Section 382.003(2), Health and Safety Code, other than odor, only upon a showing of actual and substantial damages by a plaintiff in a civil action.

(i) Subsections (b) and (c) do not affect any liability of an owner, lessee, or occupant of real property for an injury occurring outside the boundaries of the real property caused by an activity described by Section 75.001(3)(P) that originates within the boundaries of the real property.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 62, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 56, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 734, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 204, Sec. 21.01, eff. Sept. 1, 2003;

Acts 2003, 78th Leg., ch. 739, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 116 (S.B. [1224](#)), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 932 (H.B. [616](#)), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 227 (H.B. [1560](#)), Sec. 1, eff. May 25, 2007.

Acts 2007, 80th Leg., R.S., Ch. 659 (H.B. [1183](#)), Sec. 2, eff. June 15, 2007.

Sec. 75.0021. LIMITED LIABILITY OF CERTAIN PUBLIC UTILITIES. (a) In this section:

(1) "Person" includes an individual as defined by Section [71.001](#).

(2) "Public utility" means an electric utility as defined by Section [31.002](#), Utilities Code.

(b) A public utility that, as the owner, easement holder, occupant, or lessee of land, signs an agreement with a municipality, county, or political subdivision to allow public access to or use of the premises for recreation by allowing the public access or use does not assume responsibility or incur liability beyond that provided by Chapter 75 of the Civil Practice and Remedies Code to a third party who enters the premises for recreation to the extent the municipality, county, or political subdivision purchases a general liability insurance policy in amounts required by Chapter 75 of the Civil Practice and Remedies Code insuring the public utility for liability arising from the condition of the premises for such recreational use.

(c) This section applies only to a public utility located in a county with a population of 800,000 or more and located on the international border.

Added by Acts 2009, 81st Leg., R.S., Ch. 329 (H.B. [783](#)), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 44 (H.B. [200](#)), Sec. 2, eff. May 16, 2013.

Sec. 75.0022. LIMITED LIABILITY OF CERTAIN ELECTRIC UTILITIES. (a) In this section:

(1) "Electric utility" has the meaning assigned by Section [31.002](#), Utilities Code.

(2) "Person" includes an individual, as defined by Section [71.001](#).

(3) "Premises" includes the land owned, occupied, or leased by an electric utility, or covered by an easement owned by an electric utility, with respect to which public access and use is allowed in a written agreement with a

political subdivision under Subsection (c).

(4) "Serious bodily injury" means an injury that creates a substantial risk of death or that causes serious permanent disfigurement or protracted loss or impairment of the function of a body part or organ.

(b) This section applies only to an electric utility located in a county with a population of four million or more.

(c) An electric utility, as the owner, easement holder, occupant, or lessee of land, may enter into a written agreement with a political subdivision to allow public access to and use of the premises of the electric utility for recreation, exercise, relaxation, travel, or pleasure.

(d) The electric utility, by entering into an agreement under this section or at any time during the term of the agreement, does not:

(1) assure that the premises are safe for recreation, exercise, relaxation, travel, or pleasure;

(2) owe to a person entering the premises for recreation, exercise, relaxation, travel, or pleasure, or accompanying another person entering the premises for recreation, exercise, relaxation, travel, or pleasure, a greater degree of care than is owed to a trespasser on the premises; or

(3) except as provided by Subsection (e), assume responsibility or incur any liability for:

(A) damages arising from or related to bodily or other personal injury to or death of any person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or accompanies another person entering the premises for recreation, exercise, relaxation, travel, or pleasure;

(B) property damage sustained by any person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or accompanies another person entering the premises for recreation, exercise, relaxation, travel, or pleasure; or

(C) an act of a third party that occurs on the premises, regardless of whether the act is intentional.

(e) Subsection (d) does not limit the liability of an electric utility for serious bodily injury or death of a person proximately caused by the electric utility's wilful or wanton acts or gross negligence with respect to a dangerous condition existing on the premises.

(f) The limitation on liability provided by this section applies only to a cause of action brought by a person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or accompanies another person entering the premises for recreation, exercise, relaxation, travel, or pleasure.

(g) The doctrine of attractive nuisance does not apply to a claim that is subject to this section.

(h) A written agreement entered into under this section may require the political subdivision to provide or pay for insurance coverage for any defense costs or other litigation costs incurred by the electric utility for damage claims under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 44 (H.B. 200), Sec. 3, eff. May 16, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 262, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 75.003. APPLICATION AND EFFECT OF CHAPTER. (a) This chapter does not relieve any owner, lessee, or occupant of real property of any liability that would otherwise exist for deliberate, wilful, or malicious injury to a person or to property.

(b) This chapter does not affect the doctrine of attractive nuisance, except:

(1) as provided by Section 75.0022(g); and

(2) the doctrine of attractive nuisance may not be the basis for liability of an owner, lessee, or occupant of agricultural land for any injury to a trespasser over the age of 16 years.

(c) Except for a governmental unit, this chapter applies only to an owner, lessee, or occupant of real property who:

(1) does not charge for entry to the premises;

(2) charges for entry to the premises, but whose total charges collected in the previous calendar year for all recreational use of the entire premises of the owner, lessee, or occupant are not more than 20 times the total amount of ad valorem taxes imposed on the premises for the previous calendar year; or

(3) has liability insurance coverage in effect on an act or omission described by Section 75.004(a) and in the amounts equal to or greater than those provided by that section.

(d) This chapter does not create any liability.

(e) Except as otherwise provided, this chapter applies to a governmental unit.

(f) This chapter does not waive sovereign immunity.

(g) To the extent that this chapter limits the liability of a governmental unit under circumstances in which the governmental unit would be liable under Chapter 101, this chapter controls.

(h) In the case of agricultural land, an owner, lessee, or occupant of

real property who does not charge for entry to the premises because the individuals entering the premises for recreation are invited social guests satisfies the requirement of Subsection (c)(1).

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 832, Sec. 5, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 62, Sec. 3, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 520, Sec. 2, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 56, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 429, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 44 (H.B. 200), Sec. 4, eff. May 16, 2013.

Sec. 75.004. LIMITATION ON MONETARY DAMAGES FOR PRIVATE LANDOWNERS. (a) Subject to Subsection (b), the liability of an owner, lessee, or occupant of agricultural land used for recreational purposes for an act or omission by the owner, lessee, or occupant relating to the premises that results in damages to a person who has entered the premises is limited to a maximum amount of \$500,000 for each person and \$1 million for each single occurrence of bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property. In the case of agricultural land, the total liability of an owner, lessee, or occupant for a single occurrence is limited to \$1 million, and the liability also is subject to the limits for each single occurrence of bodily injury or death and each single occurrence for injury to or destruction of property stated in this subsection.

(b) This section applies only to an owner, lessee, or occupant of agricultural land used for recreational purposes who has liability insurance coverage in effect on an act or omission described by Subsection (a) and in the amounts equal to or greater than those provided by Subsection (a). The coverage may be provided under a contract of insurance or other plan of insurance authorized by statute. The limit of liability insurance coverage applicable with respect to agricultural land may be a combined single limit in the amount of \$1 million for each single occurrence.

(c) This section does not affect the liability of an insurer or insurance plan in an action under Chapter 541, Insurance Code, or an action for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

(d) This section does not apply to a governmental unit.

Added by Acts 1995, 74th Leg., ch. 520, Sec. 3, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 56, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.106, eff. September 1,

2005.

Sec. 75.006. LIABILITY LIMITED FOR ACTIONS OF FIREFIGHTER, FEDERAL LAW ENFORCEMENT OFFICER, OR PEACE OFFICER. (a) In this section:

(1) "Federal law enforcement officer" means a law enforcement officer as defined by 5 U.S.C. Section 8331(20).

(2) "Firefighter" means a member of a fire department who performs a function listed in Section 419.021(3)(C), Government Code.

(3) "Livestock" has the meaning assigned by Section 1.003, Agriculture Code.

(4) "Peace officer" has the meaning assigned by Section 1.07, Penal Code, or other state or federal law.

(b) A landowner is not liable for damages arising from an incident or accident caused by livestock of the landowner due to an act or omission of a firefighter or a peace officer who has entered the landowner's property with or without the permission of the landowner, regardless of whether the damage occurs on the landowner's property.

(c) An owner, lessee, or occupant of agricultural land is not liable for any damage or injury to any person or property that arises from the actions of a peace officer or federal law enforcement officer when the officer enters or causes another person to enter the agricultural land with or without the permission of the owner, lessee, or occupant, regardless of whether the damage or injury occurs on the agricultural land.

(d) The owner, lessee, or occupant of agricultural land is not liable for any damage or injury to any person or property that arises from the actions of an individual who, because of the actions of a peace officer or federal law enforcement officer, enters or causes another person to enter the agricultural land without the permission of the owner, lessee, or occupant.

(e) This section does not limit the liability of an owner, lessee, or occupant of agricultural land for any damage or injury that arises from a wilful or wanton act or gross negligence by the owner, lessee, or occupant.

Added by Acts 2009, 81st Leg., R.S., Ch. 786 (S.B. 1153), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 101 (S.B. 1160), Sec. 1, eff. May 20, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 101 (S.B. 1160), Sec. 2, eff. May 20, 2011.

Sec. 75.007. TRESPASSERS. (a) In this section, "trespasser" means a person who enters the land of another without any legal right, express or implied.

(b) An owner, lessee, or occupant of land does not owe a duty of care to a trespasser on the land and is not liable for any injury to a trespasser on the land, except that an owner, lessee, or occupant owes a duty to refrain from injuring a trespasser wilfully, wantonly, or through gross negligence.

(c) Notwithstanding Subsection (b), an owner, lessee, or occupant of land may be liable for injury to a child caused by a highly dangerous artificial condition on the land if:

(1) the place where the artificial condition exists is one upon which the owner, lessee, or occupant knew or reasonably should have known that children were likely to trespass;

(2) the artificial condition is one that the owner, lessee, or occupant knew or reasonably should have known existed, and that the owner, lessee, or occupant realized or should have realized involved an unreasonable risk of death or serious bodily harm to such children;

(3) the injured child, because of the child's youth, did not discover the condition or realize the risk involved in intermeddling with the condition or coming within the area made dangerous by the condition;

(4) the utility to the owner, lessee, or occupant of maintaining the artificial condition and the burden of eliminating the danger were slight as compared with the risk to the child involved; and

(5) the owner, lessee, or occupant failed to exercise reasonable care to eliminate the danger or otherwise protect the child.

(d) An owner, lessee, or occupant of land whose actions are justified under Subchapter C or D, Chapter 9, Penal Code, is not liable to a trespasser for damages arising from those actions.

(e) This section does not affect Section [75.001](#), [75.002](#), [75.0021](#), [75.003](#), or [75.004](#) or create or increase the liability of any person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 101 (S.B. [1160](#)), Sec. 3, eff. May 20, 2011.