

Proposed Conceptual Amended to SB 303

NRS 41.510 Limitation of liability; exceptions for malicious acts if consideration is given or other duty exists.

1. This section may be known and cited as the Recreational Use of Land Statute. The Legislature hereby finds and declares that the purpose of this section is to encourage:

(a) The State of Nevada and any political subdivision thereof to develop and maintain land throughout the State to be used primarily for recreational activity; and

(b) Owners of land within rural areas to make land and water areas available to the public for free to be used for recreational activity,

by limiting the liability to members of the public who enter onto the land to engage in such recreational activity.

2. Except as otherwise provided in subsection 6, the State of Nevada and any political subdivision thereof is not liable for an injury to a person engaging in recreational activity on any premises it owns, leases, or occupies that is intended to be used for recreational activity. For purposes of this paragraph, premises are intended to be used for recreational activity if the premises are:

(a) Included in any recreational plan or other similar land use plan adopted by a public entity pursuant to NRS 278.160(1)(f);

(b) Designated to be used for recreational activity by the governing body of a public entity or a designee of the governing body of the public entity including, without limitation, the issuance of a permit for the temporary or incidental use of the premises for the purpose of recreational activity; or

(c) Those portions of a public road, highway, street, alley or sidewalk forming part of a trail, equestrian path, shared-use path, or other similar trail or path.

3. Except as otherwise provided in subsection 6, an owner, lessee, or occupant of a rural or semi-rural, non-residential premises is not liable for an injury to a person engaging in recreational activity on said premises. Nothing in this section shall be construed as limiting liability for any other private owner, lessee, or occupier of any estate or interest in any urban, semi-urban, and/or residential premises, including without limitation, residential common areas, privately owned sidewalks, paths, bike paths, shared-use paths, crosswalks, walkways, parks, exercise areas, playgrounds, play areas, or any other privately held premises.

4. Except as otherwise provided in subsection 6, the State of Nevada and any political subdivision thereof or an owner, lessee, or occupant of rural or semi-rural, non-residential premises:

~~Except as otherwise provided in subsection 3, an owner of any estate or interest in any premises, or a lessee or an occupant of any premises, (a)~~ owes no duty to keep the premises safe for entry or use by others for participating in any recreational activity, or to give warning of any hazardous condition, activity or use of any structure on the premises to persons entering for those purposes.

~~2. Except as otherwise provided in subsection 3, if an owner, lessee or occupant of premises gives permission to another person to participate in recreational activities upon those premises:~~

~~(a) The owner, lessee or occupant (b)~~ does not thereby extend any assurance that the premises are safe for that purpose or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

(c) does not create a duty of care or ground of liability for injury to person or property.

5.(b) That A person **entering premises for recreational activity** does not thereby acquire any property rights in or rights of easement to the premises.

~~63.~~ This section does not:

~~(a) Li~~mit the liability which would otherwise exist for:

~~(a1)~~ Willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity.

~~(b2)~~ Injury suffered in any case where permission to participate in recreational activities was granted for a consideration other than the consideration, if any, paid to the landowner by the State or any subdivision thereof. For the purposes of this subparagraph, the price paid for a game tag sold pursuant to NRS 502.145 by an owner, lessee or manager of the premises shall not be deemed consideration given for permission to hunt on the premises.

~~(c3)~~ Injury caused by acts of persons to whom permission to participate in recreational activities was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

(d) The protections provided in Section 2 of this bill are limited to the State of Nevada and any political subdivision thereof and shall not extend to any other person or entity leasing, occupying, or using said premises.

(e) The protections provided in Section 3 of this bill do not extend to any injury caused by an act of an occupant of any premises who receives permission or compensation from the

owner or lessee to monitor, maintain, develop, construct, improve, or to otherwise occupy the premises or any portion thereof for any reason.

~~(b) Create a duty of care or ground of liability for injury to person or property.~~

4. As used in this section, "recreational activity" includes, but is not limited to:

- (a) Hunting, fishing or trapping;
- (b) Camping, hiking or picnicking;
- (c) Sightseeing or viewing or enjoying archaeological, scenic, natural or scientific sites;
- (d) Hang gliding or paragliding;
- (e) Spelunking;
- (f) Collecting rocks;
- (g) Participation in winter sports, including cross-country skiing, snowshoeing or riding a snowmobile, or water sports;
- (h) Riding animals, riding in vehicles or riding a road or mountain bicycle;
- (i) Studying nature;
- (j) Gleaning;
- (k) Recreational gardening; and
- (l) Crossing over to public land or land dedicated for public use.

→"Recreational activity" does not include utilitarian activities performed or engaged in during which the purposes is transportation, as opposed to recreation, such as walking, cycling, or using other physical or mechanical means of transportation, for the purpose of daily living or for the purpose of employment or work-related activities, such as the delivery of food or other items

5. "Residential common areas" means premises which are located within an urban private community, such as common-interest community or another private residential neighborhood, and which are primarily intended for the general use of residents of the urban private community. The term includes without limitation, sidewalks, paths, crosswalks, walkways, parks, exercise areas, playgrounds and play areas.

6. If any court order grants or denies the application of recreational immunity to the State of Nevada or any political subdivision thereof pursuant to NRS 41.510, an interlocutory appeal lies in the Supreme Court