

HB 1579 - AS INTRODUCED

2022 SESSION

22-2247
04/05

HOUSE BILL **1579**

AN ACT relative to landowner liability on land authorized for outdoor recreational activities.

SPONSORS: Rep. Gould, Hills. 7; Rep. Stavis, Graf. 13; Rep. Cordelli, Carr. 4; Rep. S. Pearson, Rock. 6; Rep. Creighton, Hills. 38; Rep. Notter, Hills. 21; Rep. Gagne, Hills. 13; Rep. Abel, Graf. 13; Sen. Prentiss, Dist 5; Sen. Kahn, Dist 10

COMMITTEE: Judiciary

ANALYSIS

This bill provides for landowner liability involving the use of land for outdoor recreational activities.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
22-2247
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to landowner liability on land authorized for outdoor recreational activities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 Propagation of Fish and Game; Liability of Landowners; Duty of Care. Amend RSA 212:34, I to read as follows:
 - I. In this section:
 - (a) "Charge" means a payment or fee paid by a person to the landowner for entry upon, or use of the premises, for outdoor recreational activity. ***A contribution or other voluntary payment not required to be made to use such land shall not be considered a charge or fee within the meaning of this section. In addition, a lease of such land for said purposes to the state or any political subdivision thereof, or to any nonprofit corporation, trust, or association, shall not be considered a charge.***
 - (b) "Landowner" means an owner, lessee, holder of an easement, occupant of the premises, or person managing, controlling, or overseeing the premises on behalf of such owner, lessee, holder of an easement, or occupant of the premises.

(c) "Outdoor recreational activity" means outdoor recreational pursuits including, but not limited to, hunting, fishing, trapping, camping, horseback riding, bicycling, water sports, winter sports, snowmobiling as defined in RSA 215-C:1, XV, operating an OHRV as defined in RSA 215-A:1, V, hiking, ice and rock climbing or bouldering, or sightseeing upon or removing fuel wood from the premises.

(d) "Premises" means the land owned, managed, controlled, or overseen by the landowner upon which the outdoor recreational activity subject to this section occurs. ***"Premises" may include, but is not limited to, improved and unimproved lands, private ways, roads, buildings, and structures on such lands as well as water standing on, or flowing through or adjacent to those lands. For the purposes of this section, "land" shall include railroad property, railroad rights-of-way, and corridors to which public access is permitted.***

2 Propagation of Fish and Game; Liability of Landowners; Duty of Care. Amend RSA 212:34, III(c) to read as follows:

(c) Assume responsibility for or incur liability for an injury to person or property caused by any act of such person to whom permission has been granted, except as provided in paragraph V. ***This shall include any person having an interest in land including the structures, buildings, and equipment attached to the land, including without limitation, railroad and utility corridors, easements, and rights of way designated for recreational use and to which public access is permitted.***

3 Limitation of Actions; Landowner Liability Limited. Amend RSA 508:14 to read as follows:
508:14 Landowner Liability Limited.

I. An owner, occupant, or lessee of land, including the state or any political subdivision, who without charge permits any person to use land for recreational purposes or as a spectator of recreational activity, shall not be liable for personal injury or property damage in the absence of intentionally caused injury or damage.

II. Any individual, corporation, or other nonprofit legal entity, or any individual who performs services for a nonprofit entity, that constructs, maintains, or improves trails for public recreational use shall not be liable for personal injury or property damage in the absence of gross negligence or willful or wanton misconduct. ***This shall include any person having an interest in land including the structures, buildings, and equipment attached to the land, including without limitation, railroad and utility corridors, buildings, or equipment used by an electric company, transmission company, distribution company, gas company, or railroad in the operation of its business, easements, and rights of way designated for recreational use and to which public access is permitted.***

III. An owner of land who permits another person to gather the produce of the land under pick-your-own or cut-your-own arrangements, provided said person is not an employee of the landowner and notwithstanding that the person picking or cutting the produce may make remuneration for the produce to the landowner, shall not be liable for personal injury or property damage to any person in the absence of willful, wanton, or reckless conduct by such owner.

IV. In this section, "land" shall include, but is not limited to, improved and unimproved lands, private ways, roads, railroad property, railroad rights-of-way, and utility corridors to which public access is permitted, any buildings or structures on those lands as well as waters standing on, flowing through or adjacent to those lands. A contribution or other voluntary payment not required to be made to use such land shall not be considered a charge or fee within the meaning of this section. Nor shall a lease of such

land for said purposes to the state or any political subdivision thereof or to any nonprofit corporation, trust, or association be considered a charge.

4 Effective Date. This act shall take effect 60 days after its passage.