

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-211—sHB 6557

Judiciary Committee

**AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE
OF LANDS**

SUMMARY: This act limits the liability of municipalities, other political subdivisions of the state, municipal corporations, special districts, and water or sewer districts that make certain types of land available to the public without charge for recreational purposes. Under the act, these entities, unlike other landowners, remain liable regarding certain structures, fields, or roads on such entities' land. Specifically, the act's liability limitation does not apply to:

1. swimming pools, playing fields or courts, playgrounds, buildings with electrical service, or machinery attached to the land, if these are in the municipality's or other entity's possession and control; and
2. paved, public, through roads that are open to the public for the operation of four-wheeled private passenger cars.

Existing law, unchanged by the act, limits the liability of political subdivisions of the state in other circumstances (see BACKGROUND).

For all landowners (not just municipalities and the other entities listed above), the act adds bicycling to the non-exclusive list of recreational purposes for which the landowner may make the land available to the public and enjoy limited liability.

EFFECTIVE DATE: October 1, 2011

LANDOWNER RECREATIONAL LAND IMMUNITY

By law, a landowner who makes land available to the public for recreational purposes without charging admission owes no duty of care to (1) keep the land safe for recreational purposes or (2) give any warning of a dangerous condition, use, structure, or activity on the land to those entering for recreational purposes. Additionally, the law provides that such landowners do not thereby (1) make any representation that the land is safe for any purpose, (2) confer on the person using the land a legal status entitling the person to a duty of care by the owner, or (3) assume responsibility or incur liability for any injury to a person or property that is caused by the landowner's act or omission.

This statutory immunity from liability does not apply to (1) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) injuries suffered in any case where the landowner charges people who use the land for recreational purposes.

For purposes of these liability protections, "owner" includes possessors of a fee interest, tenants, lessees, occupants, or persons in control of the premises. "Charge" means the admission price or fee asked in return for an invitation or

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permission to use the land.

BACKGROUND

Related Case

In *Conway v. Wilton*, 238 Conn. 653 (1996)), the Connecticut Supreme Court ruled that municipalities were not “owners” under the Recreational Land Use Act (the statute that this act amends) and were therefore not entitled to immunity from liability for injuries sustained on land they make available to the public without charge for recreational purposes.

Liability of Political Subdivisions

Except as otherwise provided by law, political subdivisions of the state are liable for damages to people or property caused by: (1) the negligent acts or omissions of the political subdivision or its employees, officers, or agents acting within the scope of their employment or official duties; (2) negligence in performing functions that give the political subdivision profit or pecuniary benefit; and (3) the political subdivision’s acts that create or help create a nuisance. But, no cause of action can be maintained for damages resulting from injury to any person or property from a defective road or bridge except as provided by law.

Except as otherwise provided by law, political subdivisions are not liable for damages caused by (1) acts or omissions of any employee, officer, or agent that constitute criminal conduct, fraud, actual malice, or willful misconduct or (2) negligent acts or omissions requiring the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law.

In addition, a political subdivision and its employees, officers, and agents acting within the scope of employment or official duties are not liable for damages resulting from:

1. the condition of natural land or unimproved property;
2. the condition of a reservoir, dam, canal, conduit, drain, or similar structures when used in a way that is not reasonably foreseeable;
3. the temporary condition of a road or bridge that results from weather, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe;
4. the condition of an unpaved road, trail, or footpath that provides access to a recreational or scenic area, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe;
5. the initiation of a judicial or administrative proceeding, unless it was filed or prosecuted without probable cause or with a malicious intent to vex or trouble;
6. the act or omission of someone other than the political subdivision’s employees, officers, or agents;
7. the issuance, denial, suspension, or revocation of (or failure or refusal to take any such action on) any permit or similar authorization when the

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authority is a discretionary function by law, unless the action constitutes a reckless disregard for health or safety;

8. failure to make an inspection or making an inadequate or negligent inspection of any property, other than property owned by, leased by, or leased to the political subdivision, to determine whether it complies with or violates any law or contains a hazard to health or safety, unless (a) the political subdivision had notice of such a violation or hazard or (b) the failure to inspect or the inadequate or negligent inspection constitutes a reckless disregard for health or safety under all the relevant circumstances;
9. failure to detect or prevent environmental pollution by other people or entities; or
10. conditions on land the state sold or transferred to the political subdivision when such conditions existed at the time of sale or transfer (CGS § 52-557n).

Related Acts

PA 11-141 (§ 19) extends the liability protection for landowners who make land available to the public without charge for recreational purposes to additional classes of owners, including towns and others. PA 11-61 (§ 139) repeals § 19 of PA 11-141.

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