

14 §159-A. LIMITED LIABILITY FOR RECREATIONAL OR HARVESTING ACTIVITIES

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1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Premises" means improved and unimproved lands, private ways, roads, any buildings or structures on those lands and waters standing on, flowing through or adjacent to those lands. "Premises" includes railroad property, railroad rights-of-way and utility corridors to which public access is permitted. [2005, c. 375, §1 (AMD).]

B. "Recreational or harvesting activities" means recreational activities conducted out-of-doors, including, but not limited to, hunting, fishing, trapping, camping, environmental education and research, hiking, recreational caving, sight-seeing, operating snow-traveling and all-terrain vehicles, skiing, hang-gliding, noncommercial aviation activities, dog sledding, equine activities, boating, sailing, canoeing, rafting, biking, picnicking, swimming or activities involving the harvesting or gathering of forest, field or marine products. It includes entry of, volunteer maintenance and improvement of, use of and passage over premises in order to pursue these activities. "Recreational or harvesting activities" does not include commercial agricultural or timber harvesting. [2009, c. 156, §1 (AMD).]

C. "Occupant" includes, but is not limited to, an individual, corporation, partnership, association or other legal entity that constructs or maintains trails or other improvements for public recreational use. [2003, c. 509, §1 (NEW).]

[2005, c. 375, §1 (AMD); 2009, c. 156, §1 (AMD) .]

2. Limited duty. An owner, lessee, manager, holder of an easement or occupant of premises does not have a duty of care to keep the premises safe for entry or use by others for recreational or harvesting activities or to give warning of any hazardous condition, use, structure or activity on these premises to persons entering for those purposes. This subsection applies regardless of whether the owner, lessee, manager, holder of an easement or occupant has given permission to another to pursue recreational or harvesting activities on the premises.

[1995, c. 566, §1 (AMD) .]

3. Permissive use. An owner, lessee, manager, holder of an easement or occupant who gives permission to another to pursue recreational or harvesting activities on the premises does not thereby:

A. Extend any assurance that the premises are safe for those purposes; [1979, c. 253, §2 (NEW).]

B. Make the person to whom permission is granted an invitee or licensee to whom a duty of care is owed; or [1979, c. 253, §2 (NEW).]

C. Assume responsibility or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted even if that injury occurs on property of another person. [2007, c. 260, §1 (AMD).]

[2007, c. 260, §1 (AMD) .]

4. Limitations on section. This section does not limit the liability that would otherwise exist:

A. For a willful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity; [1979, c. 253, §2 (NEW).]

B. For an injury suffered in any case where permission to pursue any recreational or harvesting activities was granted for a consideration other than the consideration, if any, paid to the following:

- (1) The landowner or the landowner's agent by the State; or
- (2) The landowner or the landowner's agent for use of the premises on which the injury was suffered, as long as the premises are not used primarily for commercial recreational purposes and as long as the user has not been granted the exclusive right to make use of the premises for recreational activities; or [1995, c. 566, §1 (AMD).]

C. For an injury caused, by acts of persons to whom permission to pursue any recreational or harvesting activities was granted, to other persons to whom the person granting permission, or the owner, lessee, manager, holder of an easement or occupant of the premises, owed a duty to keep the premises safe or to warn of danger. [1995, c. 566, §1 (AMD).]

[1995, c. 566, §1 (AMD) .]

5. No duty created. Nothing in this section creates a duty of care or ground of liability for injury to a person or property.

[1993, c. 622, §1 (AMD) .]

6. Costs and fees. The court shall award any direct legal costs, including reasonable attorneys' fees, to an owner, lessee, manager, holder of an easement or occupant who is found not to be liable for injury to a person or property pursuant to this section.

[1995, c. 566, §1 (AMD) .]

SECTION HISTORY

1979, c. 253, §2 (NEW). 1979, c. 514, §1 (AMD). 1979, c. 663, §75 (AMD). 1983, c. 297, §2 (AMD). 1985, c. 762, §25 (AMD). 1993, c. 622, §1 (AMD). 1995, c. 566, §1 (AMD). 2001, c. 113, §2 (AMD). 2003, c. 509, §1 (AMD). 2005, c. 375, §1 (AMD). 2007, c. 260, §1 (AMD). 2009, c. 156, §1 (AMD).

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