

1 AN ACT relating to landowner liability for recreational use permission.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 150.645 is amended to read as follows:

4 (1) An owner, lessee, or occupant of premises who gives permission to another person
5 to hunt, fish, trap, camp, ~~{or }hike,~~ **rock climb, boulder, or rappel** upon the
6 premises shall owe no duty to keep the premises safe for entry or use by the person
7 or to give warning of any hazardous conditions on the premises, and the owner,
8 lessee, or occupant, by giving his or her permission, does not thereby extend any
9 assurance that the premises are safe for such purpose, or constitute the person to
10 whom permission is granted an invitee to whom a duty of care is owed. The owner,
11 lessee, or occupant giving permission for any of the purposes stated above shall not
12 be liable for any injury to any person or property caused by the negligent acts of
13 any person to whom permission is granted. This section shall not limit the liability
14 which would otherwise exist for willful and malicious failure to guard or to warn
15 against a dangerous condition, use, structure, or activity; or for injury suffered in
16 any case where permission to hunt, fish, trap, camp, ~~{or }hike,~~ **rock climb, boulder,**
17 **or rappel** was granted for a consideration other than the consideration, if any, as set
18 forth in KRS 411.190(1)(d), paid to said owner, lessee, or occupant by the state.
19 The word "premises" as used in this section includes lands, **rocks, boulders, cliffs,**
20 private ways, and any buildings and structures thereon. Nothing in this section
21 limits in any way any liability which otherwise exists.

22 (2) Department employees who participate in bona fide wildlife management practices
23 are agents of the department and state and, in the event property damage does
24 occur, a claim for property damages may only be brought in the Board of Claims
25 pursuant to KRS 49.040 to 49.180.

26 ➔Section 2. KRS 411.190 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Land" means land, rocks, boulders, cliffs, roads, water, watercourses, private
2 ways and buildings, structures, and machinery or equipment when attached to
3 the realty;
- 4 (b) "Owner" means the possessor of a fee, reversionary, or easement interest, a
5 tenant, lessee, occupant, or person in control of the premises;
- 6 (c) "Recreational purpose" includes, but is not limited to, any of the following, or
7 any combination thereof: hunting, fishing, swimming, boating, camping,
8 picnicking, hiking, rock climbing, bouldering, rappelling, bicycling,
9 horseback riding, pleasure driving, nature study, water-skiing, winter sports,
10 and viewing or enjoying historical, archaeological, scenic, or scientific sites;
11 and
- 12 (d) "Charge" means the admission price or fee asked in return for invitation or
13 permission to enter or go upon the land but does not include fees for general
14 use permits issued by a government agency for access to public lands if the
15 permits are valid for a period of not less than thirty (30) days.
- 16 (2) The purpose of this section is to encourage owners of land to make land and water
17 areas available to the public for recreational purposes by limiting their liability
18 toward persons entering thereon for such purposes.
- 19 (3) Except as specifically recognized by or provided in subsection (6) of this section, an
20 owner of land owes no duty of care to keep the premises safe for entry or use by
21 others for recreational purposes, or to give any warning of a dangerous condition,
22 use, structure, or activity on the premises to persons entering for such purposes.
- 23 (4) Except as specifically recognized by or provided in subsection (6) of this section, an
24 owner of land who either directly or indirectly invites or permits without charge any
25 person to use the property for recreation purposes does not thereby:
- 26 (a) Extend any assurance that the premises are safe for any purpose;
- 27 (b) Confer upon the person the legal status of an invitee or licensee to whom a

1 duty of care is owed; or

2 (c) Assume responsibility for or incur liability for any injury to person or
3 property caused by an act or omission of those persons.

4 (5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) of this
5 section shall be deemed applicable to the duties and liability of an owner of land
6 leased to the state or any subdivision thereof for recreational purposes.

7 (6) Nothing in this section limits in any way any liability which otherwise exists:

8 (a) For willful or malicious failure to guard or warn against a dangerous
9 condition, use, structure, or activity; or

10 (b) For injury suffered in any case where the owner of land charges the person or
11 persons who enter or go on the land for the recreational use thereof, except
12 that in the case of land leased to the state or a subdivision thereof, any
13 consideration received by the owner for the lease shall not be deemed a
14 charge within the meaning of this section.

15 (7) Nothing in this section shall be construed to:

16 (a) Create a duty of care or ground of liability for injury to persons or property;

17 (b) Relieve any person using the land of another for recreational purposes from
18 any obligation which he or she may have in the absence of this section to
19 exercise care in his or her use of the land and in his or her activities thereon,
20 or from the legal consequences of failure to employ such care; or

21 (c) Ripen into a claim for adverse possession, absent a claim of title or legal right.

22 (8) No action for the recovery of real property, including establishment of prescriptive
23 easement, right-of-way, or adverse possession, may be brought by any person
24 whose claim is based on use solely for recreational purposes.