

House Engrossed
recreational users; property

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2130

AN ACT

AMENDING SECTION 33-1551, ARIZONA REVISED STATUTES; RELATING TO
LIABILITIES AND DUTIES ON PROPERTY USED FOR EDUCATION AND RECREATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1551, Arizona Revised Statutes, is amended to
3 read:

4 33-1551. Duty of owner, lessee or occupant of premises to
5 recreational users or educational users;
6 liability; definitions

7 A. A public or private owner, easement holder, lessee, tenant,
8 manager or occupant of premises is not liable to a recreational USER or
9 educational user except on a showing that the owner, easement holder,
10 lessee, tenant, manager or occupant was guilty of wilful, malicious or
11 grossly negligent conduct that was a direct cause of the injury to the
12 recreational USER or educational user. A RECREATIONAL USER OR EDUCATIONAL
13 USER ACCEPTS THE RISKS CREATED BY THE USER'S ACTIVITIES AND SHALL EXERCISE
14 REASONABLE CARE IN THOSE ACTIVITIES.

15 B. A LANDOWNER, EASEMENT HOLDER, LESSEE, TENANT MANAGER OR OCCUPANT
16 OF PRIVATE OR PUBLIC LAND IS NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION
17 FOR UNKNOWN CONDITIONS ON THE LAND. INSTALLING A SIGN OR OTHER FORM OF
18 WARNING OF A DANGEROUS CONDITION, USE, STRUCTURE OR ACTIVITY, OR ANY
19 MODIFICATION MADE FOR THE PURPOSE OF IMPROVING THE SAFETY OF OTHERS, OR
20 FAILING TO MAINTAIN OR KEEP IN PLACE ANY SIGN, OTHER FORM OF WARNING OR
21 ANY MODIFICATION MADE TO IMPROVE SAFETY DOES NOT CREATE LIABILITY ON THE
22 PART OF AN OWNER, EASEMENT HOLDER, LESSEE, TENANT MANAGER OR OCCUPANT OF
23 LAND IF THERE IS NO OTHER BASIS FOR THAT LIABILITY.

24 C. THIS SECTION IS APPLICABLE TO THE DUTIES AND LIABILITY OF ANY
25 GOVERNMENTAL ENTITY, NONGOVERNMENTAL ORGANIZATION OR PERSON THAT PROVIDES
26 MONIES, THAT REASONABLY PERFORMS MAINTENANCE, THAT REASONABLY MAKES OR
27 SUPPORTS IMPROVEMENTS OR THAT TAKES SIMILAR REASONABLE ACTION REGARDING
28 LAND MADE AVAILABLE TO THE PUBLIC FOR RECREATIONAL OR EDUCATIONAL
29 PURPOSES.

30 D. THIS SECTION DOES NOT CREATE A DUTY OF CARE OR BASIS OF
31 LIABILITY FOR INJURY TO PERSONS OR PROPERTY. THIS SECTION DOES NOT
32 RELIEVE ANY PERSON USING THE LAND OF ANOTHER FOR RECREATIONAL OR
33 EDUCATIONAL PURPOSES FROM ANY OBLIGATION THAT THE PERSON MAY HAVE IN THE
34 ABSENCE OF THIS SECTION TO EXERCISE CARE IN THE PERSON'S USE OF THAT LAND
35 AND IN THE ACTIVITIES ON THE LAND OR FROM LEGAL CONSEQUENCES FOR FAILING
36 TO EMPLOY SUCH CARE.

37 E. ANY PERSON THAT USES THE LAND OF ANOTHER FOR RECREATIONAL OR
38 EDUCATIONAL PURPOSES WITH OR WITHOUT PERMISSION IS LIABLE FOR ANY DAMAGE
39 TO THE LAND, PROPERTY, LIVESTOCK OR CROPS THAT THE PERSON MAY CAUSE WHILE
40 ON THAT LAND.

41 ~~B.~~ F. This section does not limit the liability that otherwise
42 exists for maintaining an attractive nuisance, except with respect to
43 dams, channels, canals and lateral ditches used for flood control,
44 agricultural, industrial, metallurgical or municipal purposes.

- 1 ~~E~~. G. For the purposes of this section:
- 2 1. "Educational user" means a person to whom permission has been
- 3 granted or implied without the payment of an admission fee or any other
- 4 consideration to enter premises to participate in an educational program,
- 5 including the viewing of historical, natural, archaeological or scientific
- 6 sites. A nominal fee that is charged by a public entity or a nonprofit
- 7 corporation to offset the cost of providing the educational or
- 8 recreational premises and associated services does not constitute an
- 9 admission fee or any other consideration as prescribed by this section.
- 10 2. "Grossly negligent" means a knowing or reckless indifference to
- 11 the health and safety of others.
- 12 3. "Park" includes outdoor school grounds that are open to
- 13 recreational users, excluding swimming pools and other aquatic features.
- 14 4. "Premises" means agricultural, range, open space, park, flood
- 15 control, mining, forest, water delivery, water drainage or railroad lands,
- 16 and any other similar lands, wherever located, that are available to a
- 17 recreational **USER** or educational user, including paved or unpaved multiuse
- 18 trails and special purpose roads or trails not open to automotive use by
- 19 the public and any building, improvement, fixture, water conveyance
- 20 system, body of water, channel, canal or lateral, road, trail or structure
- 21 on such lands.
- 22 5. "Recreational user":
- 23 (a) Means a person to whom permission has been granted or implied
- 24 without the payment of an admission fee or any other consideration to
- 25 travel across or to enter premises to hunt, fish, trap, camp, hike, ride,
- 26 engage in off-highway vehicle, off-road recreational motor vehicle or
- 27 all-terrain vehicle activity, operate aircraft, exercise, swim or engage
- 28 in other outdoor recreational pursuits. The purchase of a state hunting,
- 29 trapping or fishing license, an off-highway vehicle user indicia or a
- 30 state trust land recreational permit or payment by an agency of this state
- 31 to an owner, easement holder or lessee for public recreational access to
- 32 the premises is not the payment of an admission fee or any other
- 33 consideration as provided in this section. A nominal fee that is charged
- 34 by a public entity or a nonprofit corporation to offset the cost of
- 35 providing the educational or recreational premises and associated services
- 36 does not constitute an admission fee or any other consideration as
- 37 prescribed by this section. ~~Recreational user~~
- 38 (b) Does not include a student who is registered at a school during
- 39 designated times that the student is allowed to be on the school grounds
- 40 as determined by district personnel or who is participating in a
- 41 school-sanctioned activity.
- 42 6. "School" has the same meaning prescribed in section 15-101.