

REFERENCE TITLE: recreational users; property

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

HB 2130

Introduced by
Representative Griffin

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 DOES NOT OWE A DUTY OF CARE TO KEEP THE LAND
17 SAFE FOR ENTRY BY OTHERS FOR RECREATIONAL OR EDUCATIONAL PURPOSES OR TO
18 GIVE ANY WARNING OF A DANGEROUS CONDITION, USE, STRUCTURE OR ACTIVITY ON
19 THAT LAND TO PERSONS ENTERING FOR THOSE PURPOSES. INSTALLING A SIGN OR
20 OTHER FORM OF WARNING OF A DANGEROUS CONDITION, USE, STRUCTURE OR
21 ACTIVITY, OR ANY MODIFICATION MADE FOR THE PURPOSE OF IMPROVING THE SAFETY
22 OF OTHERS, OR FAILING TO MAINTAIN OR KEEP IN PLACE ANY SIGN, OTHER FORM OF
23 WARNING OR ANY MODIFICATION MADE TO IMPROVE SAFETY DOES NOT CREATE
24 LIABILITY ON THE PART OF AN OWNER, EASEMENT HOLDER, LESSEE, TENANT MANAGER
25 OR OCCUPANT OF LAND IF THERE IS NO OTHER BASIS FOR THAT LIABILITY.

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

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

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

43 ~~B.~~ F. This section does not limit the liability that otherwise
44 exists for maintaining an attractive nuisance, except with respect to
45 dams, channels, canals and lateral ditches used for flood control,
46 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.