

The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

Title 12: Court Procedure

Chapter 203: Limitations On Landowner Liability

§ 5791. Purpose

The purpose of this chapter is to encourage owners to make their land and water available to the public for no consideration for recreational uses by clearly establishing a rule that an owner shall have no greater duty of care to a person who, without consideration, enters or goes upon the owner's land for a recreational use than the owner would have to a trespasser. (Added 1997, No. 110 (Adj. Sess.), § 1.)

§ 5792. Definitions

As used in this chapter:

(1) "Consideration" means a price, fee, or other charge paid to or received by the owner in return for the permission to enter upon or to travel across the owner's land for recreational use. Consideration shall not include:

(A) compensation paid to or a tax benefit received by the owner for granting a permanent recreational use easement;

(B) payment or provision for compensation to be paid to the owner for damage caused by recreational use; or

(C) contributions in services or other consideration paid to the owner to offset or insure against damages sustained by an owner from the recreational use or to compensate the owner for damages from recreational use.

(2)(A) "Land" means:

(i) open and undeveloped land, including paths and trails;

(ii) water, including springs, streams, rivers, ponds, lakes, and other water courses;

(iii) fences; or

(iv) structures and fixtures used to enter or go upon land, including bridges and walkways.

(B) "Land" does not include:

(i) areas developed for commercial recreational uses;

(ii) equipment, machinery, or personal property; and

(iii) structures and fixtures not described in subdivision (A)(iii) or (iv) of this subdivision (2).

(3) "Owner" means a person who owns, leases, licenses, or otherwise controls ownership or use of land, and any employee or agent of that person.

(4) "Recreational use" means an activity undertaken for recreational, educational, or conservation purposes, and includes hunting, fishing, trapping, guiding, camping, biking, in-line skating, jogging, skiing, snowboarding, swimming, diving, water sports, rock climbing, hang gliding, caving, boating, hiking, riding an animal or a vehicle, picking wild or cultivated plants, picnicking, gleaning, rock collecting, nature study, outdoor sports, noncommercial aviation, visiting or enjoying archaeological, scenic, natural, or scientific sites, or other similar activities. "Recreational use" also means any noncommercial activity undertaken without consideration to create, protect, preserve, rehabilitate, or maintain the land for recreational uses. (Added 1997, No. 110 (Adj. Sess.), § 1; amended 2011, No. 99 (Adj. Sess.), § 1.)

§ 5793. Liability limited

(a) Land. An owner shall not be liable for property damage or personal injury sustained by a person who, without consideration, enters or goes upon the owner's land for a recreational use unless the damage or injury is the result of the willful or wanton misconduct of the owner.

(b) Equipment, fixtures, machinery, or personal property.

(1) Unless the damage or injury is the result of the willful or wanton misconduct of the owner, an owner shall not be liable for property damage or personal injury sustained by a person who, without consideration and without actual permission of the owner, enters or goes upon the owner's land for a recreational use and proceeds to enter upon or use:

(A) equipment, machinery, or personal property; or

(B) structures or fixtures not described in subdivision 5792(2)(A)(iii) or (iv) of this title.

(2) Permission to enter or go upon an owner's land shall not, by itself, include permission to enter or go upon structures or to go upon or use equipment, fixtures, machinery, or personal property.

(c) Posting. An owner may post a sign warning against dangers on the owner's land or water. An owner who posts a sign pursuant to this subsection shall not be liable for any damage or injury allegedly arising out of the posting unless the damage or injury is the result of the willful or wanton misconduct of the owner. (Added 1997, No. 110 (Adj. Sess.), § 1; amended 2017, No. 136 (Adj. Sess.), § 1, eff. May 21, 2018.)

§ 5794. Landowner protection

(a) The fact that an owner has made land available without consideration for recreational uses shall not be construed to:

(1) limit the property rights of owners;

(2) limit the ability of an owner and a recreational user of the land to enter into agreements for the recreational use of the land to vary or supplement the duties and limitations created in this chapter;

(3) support or create any claim or right of eminent domain, adverse possession, or other prescriptive right or easement or any other land use restriction;

(4) alter, modify, or supersede the rights and responsibilities under 20 V.S.A. chapter 191 (animal control), and 20 V.S.A. chapter 193 (domestic pet or wolf-hybrid control); under 23 V.S.A. chapter 29 (snowmobiles), and 23 V.S.A. chapter 31 (all-terrain vehicles); under 19 V.S.A. chapter 23 (bicycle routes); and under 10 V.S.A. chapter 20 (Vermont trail system);

(5) extend any assurance that the land is safe for recreational uses or create any duty on an owner to inspect the land to discover dangerous conditions;

(6) relieve a person making recreational use of land from the obligation the person may have in the absence of this chapter to exercise due care for the person's own safety in the recreational use of the land.

(b) Nothing in this chapter shall create any presumption or inference of permission or consent to enter upon an owner's land for any purpose.

(c) For the purposes of protecting landowners who make land available for recreational use to members of the public for no consideration pursuant to this chapter, the presence of one or more of the following on land does not by itself preclude the land from being "open and undeveloped": posting of the land, fences, or agricultural or forestry-related structures. (Added 1997, No. 110 (Adj. Sess.), § 1; amended 1997 No. 147 (Adj. Sess.), § 190a.)

§ 5795. Exceptions

This chapter shall not apply to lands owned by a municipality or the State. (Added 1997, No. 110 (Adj. Sess.), § 1.)