

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 375

98TH GENERAL ASSEMBLY

0704H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 537.345 and 537.348, RSMo, and to enact in lieu thereof two new sections relating to liability for landowners.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 537.345 and 537.348, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 537.345 and 537.348, to read as follows:

537.345. As used in sections 537.345 to [537.347] **537.348**, and section 537.351, the following terms mean:

(1) "Charge", the admission price or fee asked by an owner of land or an invitation or permission without price or fee to use land for recreational purposes when such invitation or permission is given for the purpose of sales promotion, advertising or public goodwill in fostering business purposes;

(2) "Land", all real property, land and water, and all structures, fixtures, equipment and machinery thereon;

(3) "Owner", any individual, legal entity or governmental agency that has any ownership or security interest whatever or lease or right of possession in land;

(4) "Recreational use", hunting, fishing, camping, picnicking, biking, **aviation activities**, nature study, winter sports, viewing or enjoying archaeological or scenic sites, **trapping, paddle sports as defined in section 537.327, swimming except for such activity as defined in section 537.348**, or other similar activities undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) "Trespasser", any person who enters on the property of another without permission
17 and without an invitation, express or implied regardless of whether actual notice of trespass was
18 given or the land was posted in accordance with the provisions of sections 569.140 and 569.145.

537.348. Nothing in this act shall be construed to create liability, but it does not limit
2 liability that otherwise would be incurred by those who use the land of others, or by owners of
3 land for:

4 (1) Malicious or grossly negligent failure to guard or warn against a dangerous condition,
5 structure, personal property which the owner knew or should have known to be dangerous, or
6 negligent failure to guard or warn against an ultrahazardous condition which the owner knew or
7 should have known to be dangerous;

8 (2) Injury suffered by a person who has paid a charge for entry to the land; [or]

9 (3) Injuries occurring on or in:

10 (a) Any land within the corporate boundaries of any city, municipality, town, or village
11 in this state;

12 (b) Any swimming pool. "Swimming pool" means a pool or tank, especially an artificial
13 pool or tank, intended and adapted for swimming and held out as a swimming pool;

14 (c) Any residential area. "Residential area" as used herein means a tract of land of one
15 acre or less predominately used for residential purposes, or a tract of land of any size used for
16 multifamily residential services; or

17 (d) Any noncovered land. "Noncovered land" as used herein means any portion of any
18 land, the surface of which portion is actually used primarily for commercial, industrial, mining
19 or manufacturing purposes; provided, however, that use of any portion of any land primarily for
20 agricultural, grazing, forestry, conservation, natural area, owner's recreation or similar or related
21 uses or purposes shall not under any circumstances be deemed to be use of such portion for
22 commercial, industrial, mining or manufacturing purposes; or

23 **(4) A landowner who:**

24 **(a) Intentionally injures a participant;**

25 **(b) Provides unsafe equipment or devices who knew or should have known that the**
26 **equipment or device was unsafe to the extent that it did cause the injury; or**

27 **(c) Fails to use that degree of care that an ordinarily careful and prudent person**
28 **would use under the same or similar circumstances.**

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