

SPORTS AND AMUSEMENTS

CHAPTER 336

S. B. No. 51

(Mahoney, Trenbeath)

(From LRC Study)

OUTDOOR RECREATION AGENCY

AN ACT

Designating an outdoor recreation agency for the purpose of planning and coordinating recreational projects, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Outdoor Recreation Agency—Composition—Functions.)

The State Outdoor Recreation Agency is hereby created and shall be composed of the state engineer of the water commission, commissioner of the state game and fish department, superintendent of the state historical society, commissioner of the state highway department, executive secretary of the North Dakota state soil conservation committee, state parks director, chairman of the state water commission, state health officer, director of the economic development commission, state forester, director of the North Dakota travel service, and the state adjutant general. The governor or his designee shall be agency chairman, and the governor shall appoint the executive officer of the agency whose responsibility it shall be to carry out the policies and directives of the agency and shall, within the limits of personnel and funds available, perform such other duties as may be assigned to him by the outdoor recreation agency. The agency shall serve as the focal point within the state for the many activities related to outdoor recreation. Its principal function shall be that of a planning and coordinating agency for the related programs on all governmental levels, encouraging the full development of existing and future acquisition of outdoor recreation areas. The agency, without limiting the generality thereof, shall be vested with the power, authority, duty, and general jurisdiction to:

1. Undertake the development of broad recreation policies for the state as a whole and a long-range plan for their implementation;

2. Initiate a continuing appraisal of the total state recreation resources, potentials, and needs and the adequacy of current efforts to meet the demands;
3. Provide for the coordination and appraisal of related programs administered by all levels of government and by private enterprise;
4. Cooperate with the United States or any appropriate agency thereof, particularly in connection with the distribution and use of federal aid funds which the state may become eligible to receive;
5. Encourage cooperation among public, voluntary, and commercial agencies and organizations; and
6. Apply for and receive federal grants-in-aid for recreation purposes. It shall approve their allocation to specific projects only after it has determined that sufficient funds, including those funds necessary for adequate maintenance, are and will be available from the state or political subdivisions as the case may be for meeting the state's share of project costs. If for any reason it shall become necessary for any department or agency of the state to expend state funds in order to fulfill any obligation of a political subdivision which it has agreed to perform in the construction or maintenance of such projects, the state shall have a claim against the subdivision for such money expended. All funds allocated to the state for recreation purposes shall be distributed to the departments, agencies, or political subdivisions entitled thereto; and
7. Keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States and the state of North Dakota such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs.

§ 2. Expenditures Through Existing Departments or Agencies.) All state funds, grants-in-aid from federal allocations, and other moneys or funds contributed or matched, for developing or providing public outdoor recreation facilities and opportunities made available to existing departments or agencies, shall be expended through such departments or agencies using their established procedures. Direct or force construction activities shall be undertaken and conducted only by those departments or agencies having basic authorization for such work.

§ 3. Adoption of Rules and Regulations.) Subject to the approval of the governor, the agency shall adopt and promulgate, and it may amend, modify and revise such rules and regulations for the conduct of its affairs as may be deemed necessary, including the time, place and notice of regular meetings, call and notice of special meetings, and number of members required for a quorum to transact business.

§ 4. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1965.

CHAPTER 337

S. B. No. 312

(Becker, Solberg, Morgan, Trenbeath, Mahoney)

LIMITING LIABILITY OF LANDOWNERS

AN ACT

To encourage landowners to make available to the public, land and water areas and other property for recreational purposes by limiting their liability toward users.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Definitions.) In this Act unless the context or subject matter shall otherwise require:

1. "Land" includes roads, water, water courses, private ways and buildings, structures and machinery or equipment thereon when attached to the realty;
2. "Owner" includes tenant, lessee, occupant, or person in control of the premises;
3. "Recreational purposes" includes, but is not limited to, any one or any combination of the following: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and visiting, viewing, or enjoying historical, archeological, geological, scenic, or scientific sites, or otherwise using land for purposes of the user; and
4. "Charge" means the amount of money asked in return for an invitation to enter or go upon the land.

§ 2. Duty of Care of Landowner.) Subject to the provisions of section 5 of this Act, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

§ 3. Not Invitee or Licensee of Landowner.) Subject to the provisions of section 5 of this Act, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

§ 4. Leased Land to State or Political Subdivisions.) Unless otherwise agreed in writing, an owner of land leased to the state or its political subdivisions for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or activities thereon. An owner who leases land to the state or its political subdivisions for recreational purposes shall not by giving such lease:

1. Extend any assurance to any person using the land that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land.

The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser, or otherwise.

§ 5. Willful or Malicious Failure to Warn Against Dangerous Conditions—Charge to Enter.) Nothing herein limits in any way any liability which otherwise exists for:

1. Willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or

2. Injury suffered in any case where the owner of land charges the person or persons who enter or go on the land other than the amount, if any, paid to the owner of the land by the state.

§ 6. Duty of Care or Liability for Injury.) Nothing in this Act shall be construed as creating a duty of care or grounds of liability for injury to person or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his use of such land and in his activities thereon.

Approved March 15, 1965.