

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2295
(Senators Olafson, Cook)
(Representatives Frantsvog, Keiser, Porter)

AN ACT to amend and reenact sections 53-08-01 and 53-08-02 and subsection 2 of section 53-08-03 of the North Dakota Century Code, relating to recreational immunity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-08-01 of the North Dakota Century Code is amended and reenacted as follows:

53-08-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Charge" means the amount of money asked in return for an invitation to enter or go upon the land. "Charge" does not include vehicle, parking, shelter, or other similar fees required by any public entity.
2. "Commercial purpose" means a deliberative decision of an owner to invite or permit the use of the owner's property for normal business transactions, including the buying and selling of goods and services. The term includes any decision of an owner to invite members of the public onto the premises for recreational purposes as a means of encouraging business transactions or directly improving the owner's commercial activities other than through good will. "Commercial purpose" does not include the operation of public lands by a public entity except any direct activity for which there is a charge for goods or services.
3. "Land" includes all public and private land, roads, water, watercourses, and ways and buildings, structures, and machinery or equipment thereon.
- ~~3.4.~~ "Owner" includes tenant, lessee, occupant, or person in control of the premises.
- ~~4.5.~~ "Recreational purposes" includes any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

SECTION 2. AMENDMENT. Section 53-08-02 of the North Dakota Century Code is amended and reenacted as follows:

53-08-02. Duty of care of ~~landowner~~owner.

1. Subject to the provisions of section 53-08-05, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, regardless of the location and nature of the recreational purposes and whether the entry or use by others is for their own recreational purposes or is directly derived from the recreational purposes of other persons, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.
2. This section does not apply to:
 - a. A person that enters land to provide goods or services at the request of, and at the direction or under the control of, an owner; or

- b. An owner engaged in a for-profit business venture that directly or indirectly invites members of the public onto the premises for commercial purposes or during normal periods of commercial activity in which members of the public are invited.

SECTION 3. AMENDMENT. Subsection 2 of section 53-08-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Confer upon such persons, or any other person whose presence on the premises is directly derived from those recreational purposes, the legal status of an invitee or licensee to whom a duty of care is owed other than a person that enters land to provide goods or services at the request of, and at the direction or under the control of, the owner; or

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2295.

Senate Vote: Yeas 45 Nays 2 Absent 0

House Vote: Yeas 94 Nays 0 Absent 0

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State