

HOUSE BILL No. 5248

November 1, 1989, Introduced by Reps. Law, DeMars and Nye and referred to the Committee on Judiciary.

A bill to limit the duty of care and the civil liability of owners of land in certain circumstances.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "landowners liability act".

3 Sec. 2. As used in this act:

4 (a) "Charge" means price or fee asked for services, enter-
5 tainment, recreation performed, or products offered for sale on
6 land or in return for invitation or permission to go upon land,
7 except as otherwise provided in section 3.

8 (b) "Educational purpose" means any activity undertaken as
9 part of a formal or informal educational program, and includes
10 viewing historical, natural, archaeological, or scientific
11 sites.

1 (c) "Land" means real property, and all structures,
2 fixtures, equipment, and machinery on the real property.

3 (d) "Owner" means any individual, legal entity, or govern-
4 mental entity and any employee or agent of that individual or
5 entity, that has any interest in land, whether in fee, security,
6 leasehold or possession, or control of the land.

7 (e) "Recreational purpose" means any activity undertaken for
8 recreation, exercise, education, relaxation, refreshment, diver-
9 sion, or pleasure.

10 Sec. 3. As used in this act, "charge" does not mean any of
11 the following:

12 (a) Unless otherwise agreed in writing, a lease, dedication
13 license, or easement, or the proceeds thereof, by an owner of
14 land to a nonprofit organization or governmental entity for edu-
15 cational or recreational purposes.

16 (b) Unless otherwise agreed in writing, an action taken by a
17 person, legal entity, nonprofit organization, or governmental
18 entity, whether or not sanctioned or solicited by the owner, the
19 purpose of which is to improve access to land for educational or
20 recreational purposes or warning or removal of hazards on land to
21 educational or recreational purposes.

22 (c) Unless otherwise agreed to in writing or otherwise pro-
23 vided by applicable tax law, any property tax abatement or relief
24 received by the owner from the state or local taxing authority in
25 exchange for the owner's agreement to open the land for educa-
26 tional or recreational purposes.

1 Sec. 4. Except as provided in section 7, an owner of land
2 owes no duty of care to keep the land safe for entry or use by
3 others for educational or recreational purposes, or to give any
4 warning of a dangerous condition, use, structure, or activity on
5 the land to persons entering for educational or recreational
6 purposes.

7 Sec. 5. Except as provided in section 7, an owner of land
8 who either directly or indirectly invites or permits without
9 charge any person to use the land for educational or recreational
10 purposes does not thereby do any of the following:

11 (a) Extend any assurance that the premises are safe for any
12 purpose.

13 (b) Confer upon the person using the land the legal status
14 of an invitee or licensee to whom a duty of care is owed.

15 (c) Assume responsibility for or incur liability for injury
16 or damage to any person or property caused by an act or omission
17 of the person using the land.

18 (d) Assume responsibility for or incur liability for injury
19 to the person using the land or to property caused by any natural
20 or artificial condition, structure, or personal property on the
21 land.

22 Sec. 6. The installation of a sign or other form of warning
23 of a dangerous condition, use, structure, or activity or any mod-
24 ification made for the purpose of improving the safety of others,
25 or the failure to maintain or keep in place any sign, other form
26 of warning, or modification made to improve safety, does not

1 create liability on the part of an owner of land where there is
2 no other basis for that liability.

3 Sec. 7. This act does not limit liability which otherwise
4 exists for either of the following:

5 (a) Willful or malicious but not mere negligent failure to
6 guard or warn against an ultra-hazardous condition, use, struc-
7 ture, or activity known to such owner to be dangerous.

8 (b) Injury suffered in any case where the owner of land
9 charges the person or persons who enter or go on the land for the
10 educational or recreational use thereof, except as otherwise pro-
11 vided in this act.

12 Sec. 8. (1) This act does not create a duty of care or
13 ground of liability for injury to persons or property.

14 (2) This act does not relieve any person using the land of
15 another for educational or recreational purposes from any obliga-
16 tion which he or she may have in the absence of this act to exer-
17 cise care in the person's use or the legal consequences of fail-
18 ure to employ such care.

19 Sec. 9. A defense based on this act, or an action to which
20 a defense based on this act may be raised, is subject to the pro-
21 cedures prescribed in sections 2954 to 2958 of the revised judi-
22 cature act of 1961, Act No. 236 of the Public Acts of 1961, being
23 sections 600.2954 to 600.2958 of the Michigan Compiled Laws.

24 Sec. 10. This act shall not take effect unless all of the
25 following bills of the 85th Legislature are enacted into law:

26 (a) Senate Bill No. _____ or House Bill No. _____ (request
27 no. 02847'89 a).

1 (b) Senate Bill No. _____ or House Bill No. _____ (request
2 no. 02847'89 b).