



LIABILITY FOR MINNESOTA LANDOWNERS WHO OPEN THEIR LAND FOR PUBLIC USE

MINNESOTA'S RECREATIONAL USE STATUTE PROVIDES THE
LANDOWNER WITH BROAD LIABILITY PROTECTION

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EVERY STATE has enacted a law giving liability protection to landowners who allow the public to enter their land for recreational purposes. Minnesota is no exception: "It is the policy of [Minnesota], in furtherance of the public health and welfare, to encourage and promote the use of...privately owned lands and water by the public for beneficial recreational purposes...."¹ Minnesota's Recreational Use Statute provides the landowner with broad liability protection so the public can access, and make recreational use of, natural resources on private property.

Q I am a private landowner and I want to open my land to the public for recreational use. Does Minnesota law protect me from liability?

A Yes. The Minnesota Recreational Use Statute provides considerable

protection. It states that landowners who give oral or written permission to the public for the use of their land for recreational purpose without charge:

- » Do not have to maintain the land for safe entry or use by other persons;
- » Do not have to warn of any dangerous condition on the land; and do not have to stop using the land for other purposes.²

“Landowners who charge the public a fee to use their land are not protected from liability....”

Q Who qualifies as a landowner under this law?

A The Recreational Use Statute defines “owner” as anyone who has the power to control the land or its trails.³ An “owner” is almost anyone who has a legal interest in the land, including a tenant, occupant, or caretaker.⁴

Q What qualifies as a recreational purpose under this law?

A “Recreational purpose” is defined broadly. It includes hunting, fishing, trapping, swimming, boating, camping, picnicking, hiking, rock climbing, bicycling, horseback riding, and snowmobiling. It also includes using a road or land in any manner, such as recreational trail use,⁵ nature study, and winter sports.⁶ This is not an exhaustive list. Unique recreational uses should be discussed with an attorney.

Q Can I claim protection under the Recreational Use Statute if I do not give oral or written permission to the public?

A No. Courts have refused to give the landowner the protection of the Recreational Use Statute in cases where the landowner has failed to give the public oral or written permission to use the land.⁷ This step is very important.

Q Does it affect my liability if I charge the public a fee to use my land?

A Yes. Landowners who charge the public a fee to use their land are not protected from liability under the Recreational Use Statute.⁸ These landowners are acting commercially and therefore owe the public a duty to keep the land safe for use.

Q Are there other situations where I am not covered by the law?

A Yes. Landowners are not protected by the Recreational Use Statute if they act willfully to cause injury.⁹ To “act willfully,” the landowner has to intend or take action to hurt a member of the public.

Q What are some steps I can take to be covered by the law and reduce my liability risk?

A A landowner can take several steps to reduce liability risk. Some of those steps include:

- » Make sure you actually “offer” your land for public use by giving oral or written permission and document this permission through copies or photos. You can do this by placing an ad in the paper, at local shops, or on local bulletin boards as well as by working with the local community or public health board for assistance with promotion.

- » Do not charge money for entry or use of the land.
- » Post signs on the property stating that you are not responsible for any injuries, that you have no duty to warn of dangerous conditions, and that the public enters the land at their own risk.
- » Remove, fix or otherwise remedy any dangerous conditions of the land, even though you are not required to do so.
- » Review individual situations with an attorney.



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1 MINN. STAT. § 604A.20.

2 MINN. STAT. § 604A.25.

3 *Kastner v. Star Trails Ass'n*, 658 N.W.2d 890, 895 (Minn. Ct. App. 2003).

4 MINN. STAT. § 604A.21 Subd. 4; *see Kastner*, 658 N.W.2d at 895.

5 MINN. STAT. § 604A.21 Subd. 6; *see Kastner*, 658 N.W.2d at 895.

6 MINN. STAT. § 604A.21 Subd. 5.

7 *Watters v. Buckbee Mears Co.*, 354 N.W.2d 848, 852 (Minn. Ct. App. 1984); *Hughes v. Quarve & Anderson Co.*, 338 N.W.2d 422, 427 (Minn. 1983).

8 MINN. STAT. § 604A.22.

9 MINN. STAT. § 604A.22 Subd. 3.