



# The National Agricultural Law Center

[nationalaglawcenter.org](http://nationalaglawcenter.org) | [nataglaw@uark.edu](mailto:nataglaw@uark.edu) | [@nataglaw](https://twitter.com/nataglaw)

States' Recreational Use Statutes:

*Alaska*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

# A National Agricultural Law Center Research Publication

## States' Recreational Use Statutes: Alaska

### A.S. §§ 09.65.200-202 ; § 34.17.055-100

*Current with amendments received through July 9, 2022 of the 2022 Second Regular Session of the 32nd Legislature.*

#### **§ 09.65.200. Tort immunity for personal injuries or death occurring on unimproved land.**

(a) An owner of unimproved land is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages for the injury to or death of a person who enters onto or remains on the unimproved portion of land if

- (1) the injury or death resulted from a natural condition of the unimproved portion of the land or the person entered onto the land for recreation; and
- (2) the person had no responsibility to compensate the owner for the person's use or occupancy of the land.

(b) This section does not enhance or diminish rights granted under former 43 U.S.C. 932 (R.S. 2477).

(c) In this section, “unimproved land” includes land that contains

- (1) a trail;
- (2) an abandoned aircraft landing area; or
- (3) a road built to provide access for natural resource extraction, but which is no longer maintained or used.

#### **§ 09.65.202. Tort immunity for landowners' allowing recreational activity; adverse possession.**

(a) A landowner that allows a recreational activity on the landowner's land without charge does not, by allowing that activity,

- (1) owe a duty of care to maintain the land safe for entry or use for a recreational activity or to eliminate, alter, or control the inherent risks of a recreational activity;



- (2) owe a duty to warn persons using the land for a recreational activity of any dangerous condition, known or unknown, apparent or hidden;
- (3) owe a duty to curtail or prevent use of the land for recreational activities;
- (4) implicitly ensure that the land is safe for any purpose;
- (5) confer a legal status, such as invitee or licensee, to which a special duty of care is owed; or
- (6) assume responsibility for any injury to persons or property.

(b) This section applies only during the time that a landowner allows recreational use under a recorded grant of a public recreational use easement as required in AS 34.17.100.

(c) This section does not apply to a civil action

- (1) if the landowner collects a charge for entry on the land for a recreational activity; or
- (2) that is based on intentional, reckless, or grossly negligent conduct of the landowner.

(d) This section may not be construed to conflict with, nor does it have any effect on, a liability release agreement between a participant in a recreational activity and a landowner.

(e) Except as provided for under AS 09.45.052(d), land use allowed by a landowner for a recreational activity without charge may not form the basis of a claim for adverse possession, prescriptive easement, or a similar claim.

(f) In this section,

- (1) “charge” means a fee or admission price imposed for access to or use of land, a recreational activity, a service, an entertainment, or another activity, except that the following is not considered a “charge”:
  - (A) consideration received by the landowner from the state or political subdivision for land leased or dedicated to the state or political subdivision;
  - (B) property tax relief in exchange for a landowner's agreement to open land for a recreational activity; or
  - (C) a contribution in kind, service, or cash from a user if all of the contribution is used to improve access or trails, to remedy or reduce



damage, to provide warning of a hazard, or to remove a hazard from the land;

(2) “land” includes private

(A) unimproved land;

(B) improved land, exclusive of buildings, structures, machinery, or equipment on the land;

(C) ways or land subject to an easement or right-of-way;

(D) roads and trails;

(E) water and watercourses on or running through the land;

(3) “landowner” means a private person who owns land;

(4) “private person” has the meaning given in AS 09.55.240;

(5) “recreational activity” has the meaning given “sports or recreational activity” in AS 09.65.290.

**§ 34.17.055. Tort immunity from personal injuries or death arising out of the use of land subject to a conservation easement.**

(a) In addition to the immunity provided by AS 09.65.200, an owner of land, a portion of which is subject to a conservation easement that is 50 feet or less in width, that has been granted to and accepted by the state or a municipality, and that provides public access for recreational purposes on the land subject to the conservation easement is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages to a person who uses the easement to enter onto or remain on the land if

(1) the person had no responsibility to compensate the owner for the person's use of the easement or the land; and

(2) the damages arise out of the person's use of the easement for recreational purposes on the land.

(b) The immunity under (a) of this section extends to the grantee of the conservation easement providing public access to the land for recreational purposes.

**§ 34.17.060. Definitions.**

In AS 34.17.010 - 34.17.060,



(1) “conservation easement” means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations to retain or protect natural, scenic, or open space values of real property, ensure its availability for agricultural, forest, recreational, or open space use, protect natural resources, maintain or enhance air or water quality, or preserve the historical, architectural, archaeological, or cultural aspects of real property;

(2) “holder” means

(A) a governmental body empowered to hold an interest in real property under the laws of the state or the United States; or

(B) a nonprofit corporation, charitable corporation, charitable association, or charitable trust exempted from taxation under 26 U.S.C. 501(c)(3) and empowered to retain or protect the natural, scenic, or open space values of real property, ensure the availability of real property for agricultural, forest, recreational, or open space use, protect natural resources, maintain or enhance air or water quality, or preserve the historical, architectural, archaeological, or cultural aspects of real property;

(3) “third-party right of enforcement” means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, nonprofit corporation, charitable corporation, charitable association, or charitable trust that is not a holder.

### **§ 34.17.100. Public recreational use easements.**

(a) A public recreational use easement may be created for the purposes of AS 09.65.202 by recording the grant of the easement in the recorder's office for the recording district where the land affected by the easement is located. The grant of the public recreational use easement must

(1) be on a form provided by the Department of Natural Resources;

(2) identify the land affected;

(3) set out restrictions, conditions, or reservations affecting the easement, including terms addressing duration or termination of the easement, if any; and

(4) state that the purpose of the easement is to make the land available for public recreational activity.

(b) The easement granted under (a) of this section may be a conservation easement under AS 34.17.010--34.17.060 (Uniform Conservation Easement Act).

