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States' Recreational Use Statutes: *Delaware*



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7 Del. C. §5901–§5907

Current through ch. 324 of the 151st General Assembly (2021–2022).

§ 5901. Purpose.

The purpose of this chapter is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes, whether such persons entered upon the land of the owner with or without consent of the owner.

§ 5902. Definitions.

As used in this chapter:

- (1) “Charge” means the admission price or fee asked in return for invitation or permission to enter or go upon the land.
- (2) “Land” means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.
- (3) “Owner” means the possessor of a fee interest, tenant, lessee, occupant or person in control of the premises.
- (4) “Recreational purpose” includes, but is not limited to, any of the following, or any combination thereof: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic or scientific sites.

§ 5903. Limitation on duty of owner.

Except as specifically recognized by or provided in § 5906 of this title, 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. The limitation of duty of the owner granted by this section applies whether such persons entered upon the land of the owner with or without consent of the owner.

§ 5904. Use of land without charge; limits of liability.



(a) Except as specifically recognized by or provided in § 5906 of this title, 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 person the legal status of an invitee or licensee to whom a duty of care is owed;
- (3) Assume responsibility, or incur liability, for any injury to person or property caused by an act of omission of such persons.

(b) The limits of liability of an owner as set forth under this section shall apply whether the person entered upon the land of the owner with or without consent of the owner.

§ 5905. Written waivers.

Unless otherwise agreed in writing, §§ 5903 and 5904 of this title shall be applicable to the duties and liability of an owner of land leased to the State, or any subdivision thereof, for recreational purposes.

§ 5906. Limitations on exemption from liability.

Nothing in this chapter limits in any way any liability which otherwise exists:

- (1) For willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity;
- (2) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the State or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

§ 5907. Exemptions.

Nothing in this chapter shall be construed to:

- (1) Create a duty of care, or ground of liability, for injury to persons or property;
- (2) Relieve any person using the land of another for recreational purposes from any obligation which he or she may have in the absence of this chapter to exercise care in his or her use of such land and in his or her activities thereon, or from the legal consequences of failure to employ such care.

