



# The National Agricultural Law Center

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States' Recreational Use Statutes:

*Missouri*



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# A National Agricultural Law Center Research Publication

## States' Recreational Use Statutes: Missouri

[R.S. Mo. § 537.345 to § 537.351 ; 537.355](#)

*Current through WID 1 of the 2022 Second Regular Session of the 101st General Assembly.*

### **537.345. Definitions for sections 537.345 to 537.347 and 537.351**

As used in sections 537.345 to 537.347, and section 537.351, the following terms mean:

- (1) “Charge”, the admission price or fee asked by an owner of land or an invitation or permission without price or fee to use land for recreational purposes when such invitation or permission is given for the purpose of sales promotion, advertising or public goodwill in fostering business purposes;
- (2) “Land”, all real property, land and water, and all structures, fixtures, equipment and machinery thereon;
- (3) “Owner”, any individual, legal entity or governmental agency that has any ownership or security interest whatever or lease or right of possession in land;
- (4) “Recreational use”, hunting, fishing, camping, picnicking, biking, nature study, winter sports, viewing or enjoying archaeological or scenic sites, or other similar activities undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;
- (5) “Trespasser”, any person who enters on the property of another without permission and without an invitation, express or implied regardless of whether actual notice of trespass was given or the land was posted in accordance with the provisions of sections 569.140 and 569.145.

### **537.346. Landowner owes no duty of care to persons entering without fee to keep land safe for recreational use--immunity from liability for injuries of trespasser on land adjacent to park or trail**

1. Except as provided in sections 537.345 to 537.348, and section 537.351, an owner of land owes no duty of care to any person who enters on the land without charge to keep his or her land safe for recreational use or to give any general or specific warning with respect to any natural or artificial condition, structure, or personal property thereon.
2. No owner of land shall be liable for injuries of a trespasser occurring on his or her residential area or noncovered land, as those terms are defined in section 537.348, if such area or land is adjacent to a park, as defined in section 253.010, or a trail,



as defined in section 258.100, if such trespasser is accessing or accessed the owner's property from the adjacent park or trail.

### **537.347. Landowner directly or indirectly invites or permits persons on land for recreation or wildlife management, effect**

Except as provided in sections 537.345 to 537.348, an owner of land who directly or indirectly invites or permits any person to enter his or her land for recreational use, without charge, whether or not the land is posted, or who directly or indirectly invites or permits any person to enter his or her land for recreational use in compliance with a state-administered recreational access or wildlife management program, does not thereby:

- (1) Extend any assurance that the premises are safe for any purpose;
- (2) Confer upon such person the status of an invitee, or any other status requiring of the owner a duty of special or reasonable care;
- (3) Assume responsibility for or incur liability for any injury to such person or property caused by any natural or artificial condition, structure or personal property on the premises; or
- (4) Assume responsibility for any damage or injury to any other person or property caused by an act or omission of such person.

### **537.348. Landowner liable, when -- definitions**

Nothing in this act shall be construed to create liability, but it does not limit liability that otherwise would be incurred by those who use the land of others, or by owners of land for:

- (1) Malicious or grossly negligent failure to guard or warn against a dangerous condition, structure, personal property which the owner knew or should have known to be dangerous, or negligent failure to guard or warn against an ultrahazardous condition which the owner knew or should have known to be dangerous;
- (2) Injury suffered by a person who has paid a charge for entry to the land; or
- (3) Injuries occurring on or in:
  - (a) Any swimming pool. "Swimming pool" means a pool or tank, especially an artificial pool or tank, intended and adapted for swimming and held out as a swimming pool;
  - (b) Any residential area. "Residential area" as used in this section means land used for residential purposes in an area in which



housing predominates, as opposed to industrial and commercial areas, and any land used for farming or agricultural purposes; or

(c) Any noncovered land. “Noncovered land” as used in this section means any portion of any land, the surface of which portion is actually used primarily for commercial, industrial, mining or manufacturing purposes; provided, however, that use of any portion of any land primarily for agricultural, grazing, forestry, conservation, natural area, owner's recreation or similar or related uses or purposes shall not under any circumstances be deemed to be use of such portion for commercial, industrial, mining or manufacturing purposes.

### **537.349. Liability of landowner to trespasser, immunity where trespasser under influence of drugs or alcohol--limitations**

A person or legal entity owning or controlling an interest in real property, or an agent of such person or entity, shall not incur any liability for the death of or injury to a trespasser upon the property resulting from or arising by reason of the trespasser's commission of the offense of trespass if the normal faculties of such trespasser are substantially impaired by alcohol or the illegal influence of a controlled substance as defined in section 195.010. The person or entity owning or controlling an interest in such real property shall not be immune from liability if willful and wanton misconduct on the part of such person or entity or agent thereof is the proximate cause of the death of or injury to the trespasser.

### **537.350. Double damages for throwing down gates and fences--exception**

If any person shall voluntarily throw down or open any doors, bars, gates or fences, and leave the same open or down, other than those that lead into his own enclosure, or shall voluntarily throw down, open or remove any partition fence, without giving six months' written notice to the person owning the adjoining fields, if they are cultivated lands, he shall pay to the party injured the sum of five dollars, and double the amount of damages he shall sustain by reason of such doors, bars, gates and fences having been thrown down or opened, with costs; provided, that this section shall not be construed to apply to fences erected across any watercourse in this state which carries sufficient water to move logs for lumbering purposes, of ten inches or more in diameter, and railroad crossties and piling; provided further, that any corporation, company or individual driving such logs, crossties or piling, or having placed the same in any such stream with the intent to drive or float the same, shall be liable for the actual damages which may result therefrom to any owner of land bordering on any such stream; but this section shall not be construed to include a fence erected across any such stream and not enclosing a farm or plantation, nor where, in any case, it is apparent that such fence was erected across such stream for the mere purpose of hindering the free passage of such logs, crossties or piling, or for the purpose of extorting money from the corporation, company or individual engaged in driving such logs, crossties or piling.



**537.351. Trespassers, no duty of care by owners, exception--liability for physical injury or death, when**

1. Except as provided in subsection 2 of this section, a possessor of real property, including an owner, lessee, or other occupant, or an agent of such owner, lessee, or other occupant, owes no duty of care to a trespasser except to refrain from harming the trespasser by an intentional, willful, or wanton act. A possessor of real property may use justifiable force to repel a criminal trespasser as provided by section 563.074.

2. A possessor of real property may be subject to liability for physical injury or death to a trespasser in the following situations:

(1) If the trespasser is a child who is harmed by a dangerous artificial condition on the land; and

(a) The possessor knew or should have known that children were likely to trespass at the location of the condition;

(b) The condition is one which the possessor knew or reasonably should have known involved an unreasonable risk of death or serious physical injury to such children;

(c) The injured child because of the child's youth did not discover the condition or realize the risk involved in the intermeddling with the condition or in coming within the area made dangerous by the condition;

(d) The utility to the possessor of maintaining the condition and the burden of eliminating the danger were slight as compared with the risk to the child involved; and

(e) The possessor failed to exercise reasonable care to eliminate the danger or otherwise protect the injured child; or

(2) The possessor knew or should have known that trespassers consistently intrude upon a limited area of the possessor's land where the trespasser was harmed, the harm resulted from a dangerous artificial condition on the land; and

(a) The possessor created or maintained the artificial condition that caused the injury;

(b) The possessor knew that the condition was likely to cause death or serious bodily harm to trespassers;

(c) The possessor knew or should have known that the condition was of such a nature that trespassers would not discover it; and



(d) The possessor failed to exercise reasonable care to warn trespassers of the condition and the risk involved; or

(3) If the possessor knew of the trespasser's presence on the land and failed to exercise ordinary care as to active operations carried out on the land.

3. This section does not create or increase the liability of any possessor of real property and does not affect any immunities from or defenses to liability established under state law or available under common law to which a possessor of real property may be entitled under circumstances not covered by this section.

**537.355. Private property, permission by owner to hunt, fish, or recreate, limitation on privilege**

An owner of land who either directly or indirectly invites or permits without charge any person to use such property for hunting or fishing purposes or other recreational purpose, including but not limited to any aircraft or ultralight vehicle activity, does not thereby:

(1) Confer upon such person the legal status of an invitee or licensee and owes to such person only the duty of care as is owed to a trespasser under the law;

(2) Without the failure to exercise just ordinary care, assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of such persons while hunting or fishing or engaging in other recreational activities, such as operating aircraft or ultralight vehicles;

(3) Without the failure to exercise just ordinary care, assume responsibility for or incur liability for any injury to persons or property, wherever such persons or property are located, caused while hunting or fishing or engaging in other recreational activities, such as operating aircraft or ultralight vehicles.

