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States' Recreational Use Statutes:

Oregon



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O.R.S. § 105.668 to § 105.699

Current through Chapter 2 enacted in the 2022 Regular Session of the 81st Legislative Assembly, which convened February 1, 2022 and adjourned sine die March 4, 2022, pending classification of undesignated material and text revision by the Oregon Reviser.

105.668. Use of public land; liability for negligence

(1) As used in this section:

(a) “Structures” means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.

(b) “Unimproved right of way” means a platted or dedicated public right of way over which a street, road or highway has not been constructed to the standards and specifications of the city with jurisdiction over the public right of way and for which the city has not expressly accepted responsibility for maintenance.

(2) A personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:

(a) A city with a population of 500,000 or more;

(b) The officers, employees or agents of a city with a population of 500,000 or more to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

(c) The owner of land abutting the public easement, or unimproved right of way, in a city with a population of 500,000 or more; or

(d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in a city with a population of 500,000 or more.

(3) Notwithstanding the limit in subsection (2) of this section to a city with a population of 500,000 or more, by adoption of an ordinance or resolution, a city



or county to which subsection (2) of this section does not apply may opt to limit liability in the manner established by subsection (2) of this section for:

(a) The city or county that opts in by ordinance or resolution;

(b) The officers, employees or agents of the city or county that opts into the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

(c) The owner of land abutting the public easement, or unimproved right of way, in the city or county that opts in by ordinance or resolution; and

(d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in the city or county that opts in.

(4) The immunity granted by this section from a private claim or right of action based on negligence does not grant immunity from liability:

(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to a personal injury or property damage.

(b) For personal injury or property damage resulting from gross negligence or from reckless, wanton or intentional misconduct.

(c) For an activity for which a person is strictly liable without regard to fault.

105.670. [REPEALED]

105.672. Definitions for ORS 105.672 to 105.696

As used in ORS 105.672 to 105.696:

(1) “Charge”:

(a) Means the admission price or fee requested or expected by an owner in return for granting permission for a person to enter or go upon the owner's land.

(b) Does not mean any amount received from a public body in return for granting permission for the public to enter or go upon the owner's land.

(c) Does not include the fee for a winter recreation parking permit or any other parking fee of \$15 or less per day.

(2) “Harvest” has that meaning given in ORS 164.813.



(3) “Land” includes all real property, whether publicly or privately owned.

(4) “Owner” means:

(a) The possessor of any interest in any land, including but not limited to the holder of any legal or equitable title, a tenant, a lessee, an occupant, the holder of an easement, the holder of a right of way or a person in possession of the land;

(b) An officer, employee, volunteer or agent of a person described in paragraph (a) of this subsection, while acting within the scope of assigned duties; and

(c) A director, partner, general partner, shareholder, limited liability company member, limited liability partner or limited partner of a person described in paragraph (a) of this subsection.

(5) “Recreational purposes” includes, but is not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, waterskiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project.

(6) “Special forest products” has that meaning given in ORS 164.813.

(7) “Woodcutting” means the cutting or removal of wood from land by an individual who has obtained permission from the owner of the land to cut or remove wood.

105.675. [REPEALED]

105.676. Legislative findings; public policy

The Legislative Assembly hereby declares it is the public policy of the State of Oregon to encourage owners of land to make their land available to the public for recreational purposes, for gardening, for woodcutting and for the harvest of special forest products by limiting their liability toward persons entering thereon for such purposes and by protecting their interests in their land from the extinguishment of any such interest or the acquisition by the public of any right to use or continue the use of such land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

105.677. [REPEALED]

105.680. [REPEALED]



105.682. Limitation on liability of owner of land used by public in certain cases

(1) Except as provided by subsection (2) of this section, and subject to the provisions of ORS 105.688, an owner of land is not liable in contract or tort for any personal injury, death or property damage that arises out of the use of the land for recreational purposes, gardening, woodcutting or the harvest of special forest products when the owner of land either directly or indirectly permits any person to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products. The limitation on liability provided by this section applies if the principal purpose for entry upon the land is for recreational purposes, gardening, woodcutting or the harvest of special forest products, and is not affected if the injury, death or damage occurs while the person entering land is engaging in activities other than the use of the land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

(2) This section does not limit the liability of an owner of land for intentional injury or damage to a person coming onto land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

105.685. [REPEALED]

105.687. [REPEALED]

105.688. Application of immunities from liability; restrictions

(1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided by ORS 105.682 apply to:

(a) All land, including but not limited to land adjacent or contiguous to any bodies of water, watercourses or the ocean shore as defined by ORS 390.605;

(b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on the land described in paragraph (a) of this subsection;

(c) All paths, trails, roads, watercourses and other rights of way while being used by a person to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest products, that are on land adjacent to the land that the person intends to use for recreational purposes, gardening, woodcutting or the harvest of special forest products, and that have not been improved, designed or maintained for the specific purpose of providing access for recreational purposes, gardening, woodcutting or the harvest of special forest products; and

(d) All machinery or equipment on the land described in paragraph (a) of this subsection.



(2) The immunities provided by ORS 105.682 apply to land if the owner transfers an easement to a public body to use the land.

(3) Except as provided in subsections (4) to (7) of this section, the immunities provided by ORS 105.682 do not apply if the owner makes any charge for permission to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

(4) If the owner charges for permission to use the owner's land for one or more specific recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to any use of the land other than the activities for which the charge is imposed. If the owner charges for permission to use a specified part of the owner's land for recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(5) The immunities provided by ORS 105.682 for gardening do not apply if the owner charges more than \$25 per year for the use of the land for gardening. If the owner charges more than \$25 per year for the use of the land for gardening, the immunities provided by ORS 105.682 apply to any use of the land other than gardening. If the owner charges more than \$25 per year for permission to use a specific part of the owner's land for gardening and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(6) The immunities provided by ORS 105.682 for woodcutting do not apply if the owner charges more than \$75 per cord for permission to use the land for woodcutting. If the owner charges more than \$75 per cord for the use of the land for woodcutting, the immunities provided by ORS 105.682 apply to any use of the land other than woodcutting. If the owner charges more than \$75 per cord for permission to use a specific part of the owner's land for woodcutting and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(7) The immunities provided by ORS 105.682 for the harvest of special forest products do not apply if the owner makes any charge for permission to use the land for the harvest of special forest products. If the owner charges for permission to use the owner's land for the harvest of special forest products, the immunities provided by ORS 105.682 apply to any use of the land other than the harvest of special forest products. If the owner charges for permission to use a specific part of the owner's land for harvesting special forest products and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.



(8) Notices under subsections (4) to (7) of this section may be given by posting, as part of a receipt, or by such other means as may be reasonably calculated to apprise a person of:

(a) The limited uses of the land for which the charge is made, and the immunities provided under ORS 105.682 for other uses of the land; or

(b) The portion of the land the use of which is subject to the charge, and the immunities provided under ORS 105.682 for the remainder of the land.

105.689. [REPEALED]

105.691. [REPEALED]

105.692. Right to continued use not conveyed; intention to dedicate or convey land not presumed

(1) An owner of land who either directly or indirectly permits any person to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products does not give that person or any other person a right to continued use of the land for those purposes without the consent of the owner.

(2) The fact that an owner of land allows the public to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products without posting, fencing or otherwise restricting use of the land does not raise a presumption that the landowner intended to dedicate or otherwise give over to the public the right to continued use of the land.

(3) Nothing in this section shall be construed to diminish or divert any public right to use land for recreational purposes acquired by dedication, prescription, grant, custom or otherwise existing before October 5, 1973.

(4) Nothing in this section shall be construed to diminish or divert any public right to use land for woodcutting acquired by dedication, prescription, grant, custom or otherwise existing before October 3, 1979.

105.693. [REPEALED]

105.695. [REPEALED]

105.696. No duty of care or basis for liability created

ORS 105.672 to 105.696 do not:

(1) Create a duty of care or basis for liability for personal injury, death or property damage resulting from the use of land for recreational purposes,



for gardening, for woodcutting or for the harvest of special forest products.

(2) Relieve a person using the land of another for recreational purposes, gardening, woodcutting or the harvest of special forest products from any obligation that the person has to exercise care in use of the land in the activities of the person or from the legal consequences of failure of the person to exercise that care.

105.697. [REPEALED]

105.699. Adoption of rules

The State Forester, under the general supervision of the State Board of Forestry, may adopt any rules considered necessary for the administration of the provisions of ORS 105.672 to 105.696 on state land.

