

TENNESSEE CODE ANNOTATED

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General Election ***

Title 70 Wildlife Resources

Chapter 7 Liability for Activities

Part 1 Liability of Landowner to Persons Using Land

Tenn. Code Ann. § 70-7-101 (2014)

70-7-101. Part definitions.

As used in this part, unless the context otherwise requires:

(1) (A) "Land" or "premises" means and includes all real property, waters, private ways, trees and any building or structure that might be located on real property, waters and private ways;

(B) "Land" or "premises" includes real property, waters, private ways, trees and any building or structure located on the land or premises, owned by any governmental entity, including, but not limited to, the Tennessee valley authority; and

(C) "Land" or "premises" does not include the landowner's principal place of residence and any improvements erected for recreational purposes that immediately surround such residence, including, but not limited to, swimming pools, tennis or badminton courts, barbecue or horse shoe pits, jacuzzis, hot tubs or saunas;

(2) (A) "Landowner" means the legal title holder or owner of such land or premises, or the person entitled to immediate possession of the land or premises, and includes any lessee, occupant or any other person in control of the land or premises; and

(B) "Landowner" includes any governmental entity.

70-7-102. Landowner's duty of care.

(a) The landowner, lessee, occupant, or any person in control of land or premises owes no duty of care to keep such land or premises safe for entry or use by others for such recreational activities as hunting, fishing, trapping, camping, water sports, white water rafting, canoeing, hiking, sightseeing, animal riding, bird watching, dog training, boating, caving, fruit and vegetable picking for the participant's own use, nature and historical studies and research, rock climbing, skeet and trap shooting, skiing, off-road vehicle riding, and cutting or removing wood for the participant's own use, nor shall such landowner be required to give any warning of hazardous conditions, uses of, structures, or activities on such land or premises to any person entering on such land or premises for such purposes, except as provided in § 70-7-104.

(b) The landowner, lessee, occupant, or any person in control of land or premises owes no duty of care to keep such land or premises safe for entry or use by others for recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips except as to known hazards or defects and except as provided in § 70-7-104.

70-7-103. Effect of landowner's permission.

Any landowner, lessee, occupant, or any person in control of the land or premises or such person's agent who gives permission to another person to hunt, fish, trap, camp, engage in water sports, participate in white water rafting or canoeing, hike, sightsee, ride animals, bird watch, train dogs, boat, cave, pick fruit and vegetables for the participant's own benefit, engage in nature and historical studies and research, climb rocks, shoot skeet and trap, ski, ride off-road vehicles, recreational non-commercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips, and cut and remove wood for the participant's own use upon such land or premises does not by giving such permission:

- (1) Extend any assurance that the premises are safe for such purpose;
- (2) Constitute the person to whom permission has been granted to legal status of an invitee to whom a duty of care is owed; or
- (3) Assume responsibility for or incur liability for any injury to such person or purposely caused by any act of such person to whom permission has been granted except as provided in § 70-7-104.

70-7-104. Conditions under which liability unaffected.

- (a) This part does not limit the liability that otherwise exists for:
 - (1) Gross negligence, willful or wanton conduct that results in a failure to guard or warn against a dangerous condition, use, structure or activity; or
 - (2) Injury caused by acts of persons to whom permission to hunt, fish, trap, camp, hike, sightsee, cave, recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips, or any other legal purpose was granted, to third persons or to persons to whom the person granting permission, or the landowner, lessee, occupant, or any person in control of the land or premises, owed a duty to keep the land or premises safe or to warn of danger.
- (b) Subdivision (a)(1) shall not be construed to impose liability or remove the immunity conferred by § 70-7-102 for failure to guard or warn of a dangerous condition created by forces of nature.

70-7-105. Waiver of landowner's duty of care.

Any person eighteen (18) years of age or older entering the land of another for the purpose of camping, fishing, hunting, hiking, dog training, cutting or removing firewood, recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips, for such person's use for a consideration may waive, in writing, the landowner's duty of care to such person for injuries that arise from camping, fishing, hunting, hiking, dog training, cutting or removing firewood, recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips for such person's use, if such waiver does not limit liability for gross negligence, or willful or wanton conduct, or for a failure to guard or warn against a dangerous condition, use, structure or activity.