

2d. Civ. No. B292539  
San Luis Obispo No. 16CVP0060

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

MIKAYLA HOFFMANN, by and through ) No. **S266003**  
her Guardian ad Litem AMY )  
JABCOBSEN, )  
 )  
Plaintiff and Appellant, )  
 )  
us. )  
 )  
CHRISTINA M. YOUNG, et al., )  
 )  
Defendants and Respondents.)

**APPELLANT'S REQUEST FOR JUDICIAL NOTICE**

ANDRADE LAW OFFICES, APC  
Steven R. Andrade - SBN079718  
211 Equestrian Avenue  
Santa Barbara, CA 93101

Counsel for Appellant

2d. Civ. No. B292539  
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**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

MIKAYLA HOFFMANN, by and through ) No. **S266003**  
her Guardian ad Litem AMY )  
JABCOBSEN, )  
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Plaintiff and Appellant, )  
 )  
*vs.* )  
 )  
CHRISTINA M. YOUNG, et al., )  
 )  
Defendants and Respondents.)

**APPELLANT’S REQUEST FOR JUDICIAL NOTICE;  
MEMORANDUM OF POINTS & AUTHORITIES;  
DECLARATION OF STEVEN R. ANDRADE; [PROPOSED]  
ORDER**

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Appellant Mikayla Hoffmann respectfully requests that this Honorable Court take judicial notice, pursuant to Evidence Code sections 452 and 459, of the following, which pertain to the issues raised in this Court’s review of the decision on appeal:

1. 2014 California Legislative Service Chapter 52, Senate Bill (“S.B.”) No. 1072, Legislative Counsel’s Digest of amendments to

California Civil Code § 846. A true copy of said Legislative Counsel's Digest is at **Exhibit "A"** of the separately-filed Exhibits in Support of Request for Judicial Notice, and may also be viewed online using the official website of the California State Legislature bill search portal:

[http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_1051-1100/sb\\_1072\\_bill\\_20140625\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1051-1100/sb_1072_bill_20140625_chaptered.pdf)

2. 2018 California Legislative Service Chapter 92, Senate Bill ("S.B.") No. 1289, Legislative Counsel's Digest of the amendments to California Civil Code § 846. A true copy of said Legislative Counsel's Digest is at **Exhibit "B"** of the separately-filed Exhibits in Support of Request for Judicial Notice, and may also be viewed online using the official website of the California State Legislature search portal:[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB1289](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1289)
3. Hawai'i Revised Statutes §§ 520-2 – 520-6. A true copy of said statutes are at **Exhibit "C"** of the separately-filed Exhibits in Support of Request for Judicial Notice.
4. Wisconsin Statutes Annotated ("W.S.A.") §895.52. A true copy of said statute are at **Exhibit "D"** of the separately-filed Exhibits in Support of Request for Judicial Notice.
5. Texas Civil Practice & Remedies Code §75.002. A true copy of said statute are at at **Exhibit "E"** of the separately-filed Exhibits in Support of Request for Judicial Notice.

6. Maryland Code, Natural Resources, §5-1101. A true copy of said statute are at at **Exhibit “F”** of the separately-filed Exhibits in Support of Request for Judicial Notice.
7. Nebraska Revised Statutes (“Neb.Rev.St.”) §§ 37-729 – 37-732. A true copy of said statute are at at **Exhibit “G”** of the separately-filed Exhibits in Support of Request for Judicial Notice.
8. Indiana Code (“IC”) §14-22-10-2. A true copy of said statute are at at **Exhibit “H”** of the separately-filed Exhibits in Support of Request for Judicial Notice.
9. Oregon Revised Statutes (O.R.S.) §105.672; §105.682. A true copy of said statute are at at **Exhibit “I”** of the separately-filed Exhibits in Support of Request for Judicial Notice.

This request is based on the within Memorandum of Points & Authorities, the appended Declaration of Steven R. Andrade, and on the papers and records on file in the Court pertaining to this matter.

Dated: June 9, 2021.

Respectfully submitted,

/s/ Steven R. Andrade

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Steven R. Andrade  
Counsel for Appellant

## MEMORANDUM OF POINTS & AUTHORITIES

“The reviewing court may take judicial notice of any matter specified in [Evid. C. ] Section 452.” (Evid. C. § 459.) Such matters include, “Official acts of the legislative...judicial departments of...any state of the United States” (Evid. C. § 452, subd. (c)); “Records of ...any court of this state or...any state of the United States...” (Evid. C. § 452, subd. (d).); “Facts and propositions that are...capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (Evid. C. § 452, subd. (h).)

The California Legislature has twice amended Civil Code section 846 since the decisions in *Johnson v. Unocal Corp.* (1993) 21 Cal. App. 4th 310 and *Calhoon vs. Lewis* (2000) 81 Cal.App.4th 108, both of which are cited and discussed in Appellant’s Brief on the Merits filed concurrently herewith. In her brief, Appellant relies in part on the doctrine of “legislative acquiescence” to judicial construction of statutes, as discussed by our Supreme Court in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721. Invocation of the doctrine depends on the fact that the Legislature has amended the subject statute without repudiating an earlier judicial interpretation. Thus, proof that the amendments in fact occurred is critical.

The 2014 amendment to Civil Code section 846 is at **Exhibit A**, and the 2018 amendment is at **Exhibit B**. These “official acts of the legislative department” are proper subjects for judicial notice under Evid. C. §§ 452, 459.

A prominent issue submitted for the Court's determination in this case involves the construction of Civil Code section 846, subdivision (d)(3), and inasmuch as many of California's sister-states have remarkably similar "recreational use" statutes affording similar immunity to landowners who permit the general public to come onto their lands for "recreational purposes," and because the language of Section 846 is nearly identical to language in those sister-state statutes, which share a common (and fairly uniform) model, Appellant submits that this Court's review may be informed and guided by the similar statutes from other jurisdictions. (See, e.g., *Canfield v. Security-First Nat. Bank of Los Angeles* (1939) 87 P.2d 830, 836, 13 Cal.2d 1, 14 ["...under the proper rules of construction, when a statute is adopted from a sister state that has been construed by the courts of that state, the judicial construction is likewise adopted...].)

Moreover, this Court and the Courts of Appeal have approved the taking of judicial notice of the statutory law of other states when they are relevant to a determination by a California court. (*Davenport v. Stratton* (1944) 24 Cal. 2d 232, 253; *Truong v. Nguyen* (2007) 156 Cal. App. 4th 865, 882, fn. 11; *Ross v. Creel Printing & Publ'g Co.* (2002) 100 Cal. App. 4th 736, 743 ["...may be judicially noticed pursuant to section 452, subdivision (a) as 'statutory law of [a] state of the United States ...' (§ 452, subd. (a).) The statute is relevant to our review, as discussed in section III below, and we take judicial notice."].)

**CONCLUSION**

Appellant therefore respectfully requests that the Court take judicial notice of the aforesaid official acts, court records, and facts not subject to reasonable dispute, true copies of which are separately-filed as Exhibits in Support of Request for Judicial Notice.

Dated: June 9, 2021.

Respectfully submitted,

/s/ Steven R Andrade  
Steven R. Andrade  
Attorney for Appellant

## DECLARATION OF STEVEN R. ANDRADE

I, STEVEN R. ANDRADE, declare that I am an attorney, duly admitted to practice before the Bar of this Honorable Court, and that if called as a witness I could, and would, competently testify that:

1. In the process of drafting Appellant Mikayla Hoffmann's Opening Brief on appeal, I accessed the official websites of the California Legislature and that my legal research provider, Westlaw, using the url's set forth on pages 2 - 3, *ante*. Had time permitted, I would have requested from the California Secretary of State certified copies of the material, and, should this Court conclude that Evid. C. § 452, subds. (a), (c), (d) and (h), will not obviate any need for more robust authentication, I ask leave to make those requests. The material I downloaded from those official websites, and separately filed, are:

**Exhibit "A"** is a true copy of the 2014 California Legislative Service Chapter 52, Senate Bill ("S.B.") No. 1072, Legislative Counsel's Digest of amendments to California Civil Code § 846.

**Exhibit "B"** is a true copy of the 2018 California Legislative Service Chapter 92, Senate Bill ("S.B.") No. 1289, Legislative Counsel's Digest of the amendments to California Civil Code § 846.

2. In researching Civil Code section 846, which figures prominently and critically in this appeal, I observed that it had been amended twice by the California Legislature since this Court's 1993 decision in the *Johnson* case, and the 2000 decision by the Fourth District in *Calhoon*, both cited *ante* and in the Opening Brief. Those



amendments to Section 846 did not disturb in any way the construction of the statute that made in *Johnson and Calhoon*, so as to implicate the doctrine of legislative acquiescence discussed above and in the opening brief. True copies of the 2014 and the 2018 amendments to Section 846 are at **Exhibit A** and **Exhibit B**, respectively.

4. In reviewing the various treatises authored by legal commentators regarding the history of recreational use statutes in the United States, I concluded that some of our sister-states have statutes that are, in some cases, nearly identical to those of California, and, in some cases, their legislatures appear to better anticipated some of the issues raised in this appeal than has our own. In any event, it is my professional opinion that the statutes of Hawai'i, Wisconsin, Texas, Maryland, Nebraska, Indiana and Oregon will be helpful in this Court's determination of the issues presented on this appeal. True copies of the relevant provisions of those sister-state legislative enactments are at **Exhibits C through I** of Appellant's separately-filed Exhibits in Support of Request for Judicial Notice. Parenthetically, I have found that each and every one of those statutes is accessible via the Westlaw legal research application to which I subscribe, and it is my sense that the Court's research capabilities are superior to my own.

5. I respectfully request that the Court take judicial notice of the appended documents.

This declaration is executed on the 9<sup>th</sup> day of June, 2021 at Santa Barbara, California. I declare under penalty of perjury under

the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_/s/ Steven R. Andrade\_\_\_\_\_  
Steven R. Andrade

**[Proposed] O R D E R**

The Court, having considered the request of Appellant Mikayla Hoffmann, and good cause appearing,

Appellant's Request for Judicial Notice of Exhibits A, B, C, D, E, F, G, H, and I to her separately filed Exhibits in Support of Judicial Notice is GRANTED.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2021.

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CHIEF JUSTICE

**PROOF OF SERVICE**

*Hoffmann v. Young et al.*

**Case No. S266003**

**Court of Appeal Case No. B292539**

**STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Santa Barbara, State of California. My business address is 211 Equestrian Avenue, Santa Barbara, CA 93101.

On June 9, 2021, I served true copies of the following document(s) described as APPELLANT'S REQUEST FOR JUDICIAL NOTICE on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Andrade Law Offices, APC's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 9, 2021, at Santa Barbara, California.

/s/ Angelic Robinson

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Angelic Robinson

**SERVICE LIST**  
***Hoffmann v. Young et al.***  
**Case No. S266003**  
**Court of Appeal Case No. B292539**

COUNSEL OF RECORD	PARTY REPRESENTED
<p>Jay M. Borgeson Royce J. Borgeson Henderson &amp; Borgeson 801 Garden Street, Suite 100 Santa Barbara, CA 93101 (805) 963-0484 • Fax: (805) 962-7223 jay@hendersonborgeson.com royce@hendersonborgeson.com</p>	<p>Defendants and Respondents Christina M. Young, Donald G. Young Jr., Gunner Young, and Dillon Young (Via TrueFiling)</p>
<p>Dean A. Bochner Joshua C. McDaniel Horvitz &amp; Levy, LLP 3601 West Olive Avenue, 8<sup>th</sup> Floor Burbank, CA 91505-4681 (818) 995-0800 • Fax: (844) 497-6592 chu@horvitzlevy.com dbochner@horvitzlevy.com jmcdaniel@horvitzlevy.com</p>	<p>Defendants and Respondents Christina M. Young, Donald G. Young Jr., Gunner Young, and Dillon Young (Via TrueFiling)</p>
<p>Hon. Linda D. Hurst San Luis Obispo County Superior Court Paso Robles Branch 901 Park Street Paso Robles, CA 93446 (805) 706-3600</p>	<p>Trial Court Judge Case No. 16CVP0060 (Via U.S. Mail)</p>
<p>Office of the Clerk California Court of Appeal Second Appellate District, Division 6 Court Place 200 East Santa Clara Street Ventura, CA 93001 (805) 641-4700</p>	<p>Case No. B292539 (Via TrueFiling)</p>

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**APPELLANT'S EXHIBITS IN SUPPORT OF REQUEST FOR  
JUDICIAL NOTICE**

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Counsel for Appellant

## SUPPORTING DOCUMENTS - TABLE OF CONTENTS

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Wisconsin Statutes Annotated ("W.S.A."), §895.52.	D	RJN0014 - 0018
Texas Civil Practice & Remedies Code, §75.002.	E	RJN0019 – 0022
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Indiana Code ("IC") §14-22-10-2.	H	RJN0032 – 0035
Oregon Revised Statutes (O.R.S.") §105.672; §105.682.	I	RJN0036 – 0039

# EXHIBIT A

S266003\_RJN\_0001



2014 Cal. Legis. Serv. Ch. 52 (S.B. 1072) (WEST)

CALIFORNIA 2014 LEGISLATIVE SERVICE

2014 Portion of 2013-2014 Regular Session

Additions are indicated by **Text**; deletions by  
~~\*\*\*~~ .

Vetoed are indicated by ~~Text~~ ;  
stricken material by ~~Text~~ .

CHAPTER 52

S.B. No. 1072

RECREATION AND RECREATIONAL AREAS—  
RECREATIONAL PURPOSE—LANDOWNER LIABILITY

AN ACT to amend Section 846 of the Civil Code, relating to real property.

[Filed with Secretary of State June 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1072, Fuller. Real property: duty of care: recreational purposes: aviation activities.

Existing law provides that an owner of any estate or interest in real property owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, with certain exceptions. Existing law defines “recreational purpose” for purposes of this law to mean certain activities, including among others, hang gliding.

This bill would expand the definition of “recreational purpose” to include private noncommercial aviation activities.

The people of the State of California do enact as follows:

SECTION 1. Section 846 of the Civil Code is amended to read:

<< CA CIVIL § 846 >>

846. An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on **those** premises to persons entering for ~~\*\*\*~~ a recreational purpose, except as provided in this section.

A “recreational purpose,” as used in this section, includes ~~\*\*\*~~ activities **such** as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, **private**

**noncommercial aviation activities**, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for **that** purpose, or (b) constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of **the** person to whom permission has been granted except as provided in this section.

This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

Nothing in this section creates a duty of care or ground of liability for injury to person or property.

# EXHIBIT B

S266003\_RJN\_0004

2018 Cal. Legis. Serv. Ch. 92 (S.B. 1289) (WEST)

CALIFORNIA 2018 LEGISLATIVE SERVICE

2018 Portion of 2017-2018 Regular Session

Additions are indicated by **Text**; deletions by

**\*\*\***

Vetoed are indicated by ~~Text~~ ;  
stricken material by ~~Text~~ .

CHAPTER 92

S.B. No. 1289

MAINTENANCE OF CODES

AN ACT to amend Sections 2894, 3502.1.5, 4301, 6081, 7500.3, 7521, 7538.5, 7539, 7639.08, 7685.2, 10145, 19239, 19245, 19250, 25682, 26001, 26013, 26051, 26055, 26057, 26060, 26060.1, 26067, 26068, 26070.5, 26110, 26152, 26211, and 26231 of, to amend the heading of Article 9 (commencing with Section 19285) of Chapter 3.1 of Division 8 of, to amend the heading of Chapter 5 (commencing with Section 22980) of Division 8.6 of, and to repeal Section 7530 of, the Business and Professions Code, to amend Sections 846, 945, 1550.5, 1798.25, 1938, and 4615 of the Civil Code, to amend Sections 38, 77, 116.221, 1159, 1160, 2016.080, 2034.260, and 2093 of the Code of Civil Procedure, to amend Sections 1401.5 and 12317 of the Corporations Code, to amend Sections 35330, 44010, 44225, 44978.2, 46601, 48204.4, 51422, 54444.2, 84750.7, 87623, and 88912 of the Education Code, to amend Sections 10, 9067, 9111, 9287, 9310, 9503, and 21551 of, and to amend and renumber Section 14228 of, the Elections Code, to amend Sections 22681, 22686, and 22687 of the Financial Code, to amend Section 2080.1 of the Fish and Game Code, to amend Sections 224, 4051, 11792, 14649, 35016, 35221, 54291, 79163, 79187, and 79851 of the Food and Agricultural Code, to amend Sections 915, 946.6, 955.9, 1001, 6253.2, 6253.4, 6254.3, 6268, 8670.32, 9147.7, 9605, 12012.81, 12583, 12993, 14670.35, 14838, 15827, 15830, 15831, 15832, 15841, 16500.5, 20351, 20636, 20636.1, 20825, 22874.3, 22958.1, 31855.3, 53630.5, 65589.5, 65621, 65623, 65624, 65863.11, 65913.4, 66201, 68514, 68803, 69141, 76000.10, 84504.2, 84504.3, 84504.5, 84602.3, and 100002 of, to amend the heading of Chapter 11 (commencing with Section 3550) of Division 4 of Title 1 of, and to amend and renumber Section 12012.91 of, the Government Code, to amend Sections 1336.3, 1367.04, 1367.042, 1373.96, 1569.699, 1788, 7000, 7103, 7117, 11361.5, 11362.4, 25507, 42402, 44361, 50710.1, 100851, 100852, 103055, 103780, 111175, 111190, 116277, and 116625 of the Health and Safety Code, to amend Sections 1063.2, 10133.8, 10133.11, and 10493 of the Insurance Code, to amend Sections 1684, 1697.5, and 1720 of the Labor Code, to amend Sections 232, 435, and 1451 of the Military and Veterans Code, to amend Sections 831.4, 1202.4, 2808, 5075, 11105, and 31630 of, and to amend and renumber Section 29581 of, the Penal Code, to amend Section 2356.5 of the Probate Code, to amend Section 3501 of the Public Contract Code, to amend Section 14571.9 of the Public Resources Code, to amend Sections 454.52, 2836.7, 99313, 99314, 99314.1, 99314.2, 103326, 120102.5, 132354.1, and 132656 of the Public Utilities Code, to amend Sections 259.15, 721.5, 7102, 7285.91, 7653.2, 11053, 17039, 17062, 17063, 17132.11, 17276, 17736, 18152, 23802, 34010, 34011, 34018, and 60050 of, and to repeal Sections 17750 and 19133.5 of, the Revenue and Taxation Code, to amend Sections 155.7, 2032, 30911, and 30914.7 of the Streets and Highways Code, to amend Sections 545, 1808.1, 22508.5, 25258, 34687, and 34692 of the Vehicle Code, to amend Sections 189.3, 1825, 7049, 13276, 31142.50, and 71611.5 of the Water Code, to amend Sections 727, 4418.25, 4648, 4677, 4698, 5270.15, 5328, 5835.3, 6509, 7502.5, 10951.5, 11323.4, 11403.05, 11403.2, 14029.91, 14029.92, 14132.100, 14132.97, 14197, 14727, and 16501 of the Welfare and Institutions Code, to amend Sections 201, 409, and 801 of the San Joaquin River Exchange Contractors Groundwater Sustainability Agency Act (Chapter 357 of the Statutes of 2017), to amend Section 1 of Chapter 479 of the Statutes of 2017, and to amend Section 29 of the Santa Clarita Valley Water Agency Act (Chapter 833 of the Statutes of 2017), relating to the maintenance of the codes.

[Filed with Secretary of State July 9, 2018.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1289, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

The people of the State of California do enact as follows:

SECTION 1. Section 2894 of the Business and Professions Code is amended to read:

<< CA BUS & PROF § 2894 >>

2894. (a) All money in the Vocational Nursing and Psychiatric Technicians Fund shall be available, upon appropriation by the Legislature, to carry out this chapter, including the promotion of nursing education in this state, and Chapter 10 (commencing with Section 4500), and for the refund, in accordance with law, of license fees or other moneys paid into the Vocational Nursing and Psychiatric Technicians Fund under the provisions of this chapter and Chapter 10 (commencing with Section 4500).

(b) Claims against the Vocational Nursing and Psychiatric Technicians Fund shall be audited by the Controller, and shall be paid by the Treasurer upon warrants drawn by the Controller.

SEC. 2. Section 3502.1.5 of the Business and Professions Code is amended to read:

<< CA BUS & PROF § 3502.1.5 >>

3502.1.5. ~~\*\*\*~~ This chapter or any other provision of law shall **not** be construed to prohibit a physician assistant from administering or providing buprenorphine to a patient, or transmitting orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act (Public Law 114–198),<sup>1</sup> as enacted on July 22, 2016, including the following:

(a) The requirement that the physician assistant complete not fewer than 24 hours of initial training provided by an organization listed in sub-subclause (aa) of subclause (II) of clause (iv) of subparagraph (G) of paragraph (2) of subdivision (g) of Section 823 of Title 21 of the United States Code, or any other organization that the United States Secretary of Health and Human Services determines is appropriate for the purposes of that sub-subclause, that addresses the following:

(1) Opioid maintenance and detoxification.

(2) Appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of opioid use disorder.

SEC. 32. Section 26231 of the Business and Professions Code is amended to read:

<< CA BUS & PROF § 26231 >>

26231. A corporation that is organized or existing pursuant to any law except ~~\*\*\*~~ **Part 12** (commencing with Section ~~\*\*\*~~ 14550) of **Division 3 of Title 1 of the Corporations Code** may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

SEC. 33. Section 846 of the Civil Code is amended to read:

<< CA CIVIL § 846 >>

846. (a) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, except as provided in this section.

(b) A "recreational purpose," as used in this section, includes activities such as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, private noncommercial aviation activities, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

(c) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby ~~\*\*\*~~ **do any of the following:**

(1) **Extend** any assurance that the premises are safe for that purpose~~\*\*\*~~ .

(2) **Constitute** the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed~~\*\*\*~~ .

(3) **Assume** responsibility for or incur liability for any injury to person or property caused by any act of the person to whom permission has been granted except as provided in this section.

(d) This section does not limit the liability which otherwise exists ~~\*\*\*~~ **for any of the following:**

(1) **Willful** or malicious failure to guard or warn against a dangerous condition, use, structure or activity~~\*\*\*~~ .

(2) **Injury** suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose~~\*\*\*~~ .

(3) **Any persons** who are expressly invited rather than merely permitted to come upon the premises by the landowner.



~~\*\*\*~~ (e) This section ~~\*\*\*~~ does not create a duty of care or ground of liability for injury to person or property.

SEC. 34. Section 945 of the Civil Code is amended to read:

<< CA CIVIL § 945 >>

945. The provisions, standards, rights, and obligations set forth in this title are binding upon all original purchasers and their successors-in-interest. For purposes of this title, associations and others having the rights set forth in Sections 5980 and 5985 shall be considered to be original purchasers and shall have standing to enforce the provisions, standards, rights, and obligations set forth in this title.

SEC. 35. Section 1550.5 of the Civil Code is amended to read:

<< CA CIVIL § 1550.5 >>

1550.5. (a) The Legislature finds and declares all of the following:

(1) The Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorized the use of marijuana for medical purposes in this state.

(2) The Legislature passed the Medical Cannabis Regulation and Safety Act, formerly Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, to regulate and license medical cannabis in the state.

(3) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorized the consumption of nonmedical marijuana by persons over 21 years of age and provided for the licensure and regulation of certain commercial nonmedical marijuana activities in this state.

(4) The Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code) to consolidate the licensure and regulation of certain commercial activities with respect to medicinal cannabis and nonmedical marijuana, now known as adult-use cannabis.

(b) Notwithstanding any law, including, but not limited to, Sections 1550, 1667, and 1668 and federal law, commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following:

(1) A lawful object of a contract.

(2) Not contrary to, an express provision of law, any policy of express law, or good morals.

(3) Not against public policy.

SEC. 36. Section 1798.25 of the Civil Code is amended to read:

<< CA CIVIL § 1798.25 >>

1798.25. (a) Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (l), (o), or (p) of Section 1798.24. This accounting shall also be required for disclosures made pursuant to subdivision (e) or (f) of Section 1798.24 unless notice of the type of disclosure has

# EXHIBIT C

S266003\_RJN\_0009



West's Hawai'i Revised Statutes Annotated  
Division 3. Property; Family  
Title 28. Property  
[Chapter 520]. [Landowners' Liability]

**HRS § 520-2**

**§ 520-2. Definitions**

**Currentness**

As used in this chapter:

“Charge” means the admission price or fee asked in return for invitation or permission to enter or go upon the land.

“House guest” means any person specifically invited by the owner or a member of the owner's household to visit at the owner's home whether for dinner, or to a party, for conversation or any other similar purposes including for recreation, and includes playmates of the owner's minor children.

“Land” means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to realty, other than lands owned by the government.

“Owner” means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

“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.

“Recreational user” means any person who is on or about the premises that the owner of land either directly or indirectly invites or permits, without charge, entry onto the property for recreational purposes.

**Credits**

Laws 1969, ch. 186, § 2; Laws 1984, ch. 90, § 1; Laws 1997, ch. 272, § 1.

HRS § 520-2, HI ST § 520-2

Current through Act 6 of the 2021 Regular Session, pending text revision by the revisor of statutes. Some statute sections may be more current; see credits for details.

West's Hawai'i Revised Statutes Annotated  
Division 3. Property; Family  
Title 28. Property  
[Chapter 520]. [Landowners' Liability]

**HRS § 520-4**

**§ 520-4. Liability of owner limited**

**Currentness**

(a) Except as specifically recognized by or provided in section 520-6, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for recreational purposes does not:

- (1) Extend any assurance that the premises are safe for any purpose;
- (2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;
- (3) Assume responsibility for, or incur liability for, any injury to person or property caused by an act of omission or commission of such persons; and
- (4) Assume responsibility for, or incur liability for, any injury to person or persons who enter the premises in response to an injured recreational user.

(b) An owner of land who is required or compelled to provide access or parking for such access through or across the owner's property because of state or county land use, zoning, or planning law, ordinance, rule, ruling, or order, to reach property used for recreation purposes, or as part of a habitat conservation plan, or safe harbor agreement, shall be afforded the same protection as to such access, including parking for such access, as an owner of land who invites or permits any person to use that owner's property for recreational purposes under subsection (a).

**Credits**

Laws 1969, ch. 186, § 4; Laws 1996, ch. 151, § 2; Laws 1997, ch. 272, § 3; Laws 1997, ch. 380, § 9.

HRS § 520-4, HI ST § 520-4

Current through Act 6 of the 2021 Regular Session, pending text revision by the revisor of statutes. Some statute sections may be more current; see credits for details.

West's Hawai'i Revised Statutes Annotated  
Division 3. Property; Family  
Title 28. Property  
[Chapter 520]. [Landowners' Liability]

**HRS § 520-5**

**[§ 520-5]. Exceptions to limitations**

**Currentness**

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

- (1) For wilful or malicious failure to guard or warn against a dangerous condition, use, or structure which the owner knowingly creates or perpetuates and for wilful or malicious failure to guard or warn against a dangerous activity which the owner knowingly pursues or perpetuates.
- (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 political subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.
- (3) For injuries suffered by a house guest while on the owner's premises, even though the injuries were incurred by the house guest while engaged in one or more of the activities designated in section [520-2].

**Credits**

Laws 1969, ch. 186, § 5.

HRS § 520-5, HI ST § 520-5

Current through Act 6 of the 2021 Regular Session, pending text revision by the revisor of statutes. Some statute sections may be more current; see credits for details.

West's Hawai'i Revised Statutes Annotated  
Division 3. Property; Family  
Title 28. Property  
[Chapter 520]. [Landowners' Liability]

HRS § 520-6

[§ 520-6]. Persons using land

Currentness

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 the person may have in the absence of this chapter to exercise care in the person's use of such land and in the person's activities thereon, or from the legal consequences of failure to employ such care.

**Credits**

Laws 1969, ch. 186, § 6; Laws 1984, ch. 90, § 1.

HRS § 520-6, HI ST § 520-6

Current through Act 6 of the 2021 Regular Session, pending text revision by the revisor of statutes. Some statute sections may be more current; see credits for details.

# EXHIBIT D

S266003\_RJN\_0014

West's Wisconsin Statutes Annotated

Miscellaneous Actions, Proceedings and Procedure (Ch. 895 to 900)

Chapter 895. Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts

Subchapter II. Exemptions from, and Limitations on, Liability

W.S.A. 895.52

895.52. Recreational activities; limitation of property owners' liability

Effective: April 18, 2014

Currentness

**(1) Definitions.** In this section:

(ag) "Agricultural tourism activity" means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.

(ar) "Governmental body" means any of the following:

1. The federal government.
2. This state.
3. A county or municipal governing body, agency, board, commission, committee, council, department, district or any other public body corporate and politic created by constitution, statute, ordinance, rule or order.
4. A governmental or quasi-governmental corporation.
5. A formally constituted subunit or an agency of subd. 1., 2., 3. or 4.

(b) "Injury" means an injury to a person or to property.

(c) "Nonprofit organization" means an organization or association not organized or conducted for pecuniary profit.

(d) "Owner" means either of the following:

1. A person, including a governmental body or nonprofit organization, that owns, leases or occupies property.

2. A governmental body or nonprofit organization that has a recreational agreement with another owner.

(e) "Private property owner" means any owner other than a governmental body or nonprofit organization.

(f) "Property" means real property and buildings, structures and improvements thereon, and the waters of the state, as defined under s. 281.01(18).

(g) "Recreational activity" means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, operating a vehicle, as defined in s. 340.01(74), on a road designated under s. 23.115, recreational aviation, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, participating in an agricultural tourism activity, sport shooting and any other outdoor sport, game or educational activity. "Recreational activity" does not include any organized team sport activity sponsored by the owner of the property on which the activity takes place.

(h) "Recreational agreement" means a written authorization granted by an owner to a governmental body or nonprofit organization permitting public access to all or a specified part of the owner's property for any recreational activity.

(hm) "Recreational aviation" means the use of an aircraft, other than to provide transportation to persons or property for compensation or hire, upon privately owned land. For purposes of this definition, "privately owned land" does not include a public-use airport, as defined in s. 114.002(18m).

(i) "Residential property" means a building or structure designed for and used as a private dwelling accommodation or private living quarters, and the land surrounding the building or structure within a 300-foot radius.

**(2) No duty; immunity from liability.** (a) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner owes to any person who enters the owner's property to engage in a recreational activity:

1. A duty to keep the property safe for recreational activities.

2. A duty to inspect the property, except as provided under s. 23.115(2).

3. A duty to give warning of an unsafe condition, use or activity on the property.

(b) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner is liable for the death of, any injury to, or any death or injury caused by, a person engaging in a recreational activity on the owner's property or for any death or injury resulting from an attack by a wild animal.



**(3) Liability; state property.** Subsection (2) does not limit the liability of an officer, employee or agent of this state or of any of its agencies for either of the following:

(a) A death or injury that occurs on property of which this state or any of its agencies is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent knew, which occurs on property designated by the department of natural resources under s. 23.115 or designated by another state agency for a recreational activity.

**(4) Liability; property of governmental bodies other than this state.** Subsection (2) does not limit the liability of a governmental body other than this state or any of its agencies or of an officer, employee or agent of such a governmental body for either of the following:

(a) A death or injury that occurs on property of which a governmental body is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent of a governmental body knew, which occurs on property designated by the governmental body for recreational activities.

**(5) Liability; property of nonprofit organizations.** Subsection (2) does not limit the liability of a nonprofit organization or any of its officers, employees or agents for a death or injury caused by a malicious act or a malicious failure to warn against an unsafe condition of which an officer, employee or agent of the nonprofit organization knew, which occurs on property of which the nonprofit organization is the owner.

**(6) Liability; private property.** Subsection (2) does not limit the liability of a private property owner or of an employee or agent of a private property owner whose property is used for a recreational activity if any of the following conditions exist:

(a) The private property owner collects money, goods or services in payment for the use of the owner's property for the recreational activity during which the death or injury occurs, and the aggregate value of all payments received by the owner for the use of the owner's property for recreational activities during the year in which the death or injury occurs exceeds \$2,000. The following do not constitute payment to a private property owner for the use of his or her property for a recreational activity:

1. A gift of wild animals or any other product resulting from the recreational activity.
2. An indirect nonpecuniary benefit to the private property owner or to the property that results from the recreational activity.
3. A donation of money, goods or services made for the management and conservation of the resources on the property.



4. A payment of not more than \$5 per person per day for permission to gather any product of nature on an owner's property.

5. A payment received from a governmental body.

6. A payment received from a nonprofit organization for a recreational agreement.

7. A payment made to purchase products or goods offered for sale on the property.

(b) The death or injury is caused by the malicious failure of the private property owner or an employee or agent of the private property owner to warn against an unsafe condition on the property, of which the private property owner knew.

(c) The death or injury is caused by a malicious act of the private property owner or of an employee or agent of a private property owner.

(d) The death or injury occurs on property owned by a private property owner to a social guest who has been expressly and individually invited by the private property owner for the specific occasion during which the death or injury occurs, if the death or injury occurs on any of the following:

1. Platted land.

2. Residential property.

3. Property within 300 feet of a building or structure on land that is classified as commercial or manufacturing under s. 70.32(2)  
(a) 2. or 3.

(e) The death or injury is sustained by an employee of a private property owner acting within the scope of his or her duties.

**(7) No duty or liability created.** Except as expressly provided in this section, nothing in this section, s. 101.11, or s. 895.529 nor the common law attractive nuisance doctrine creates any duty of care or ground of liability toward any person who uses another's property for a recreational activity.

**Credits**

<<For credits, see Historical Note field.>>

W. S. A. 895.52, WI ST 895.52

Current through 2021 Act 7, published March 2, 2021

# EXHIBIT E

S266003\_RJN\_0019

Vernon's Texas Statutes and Codes Annotated  
Civil Practice and Remedies Code (Refs & Annos)  
Title 4. Liability in Tort  
Chapter 75. Limitation of Landowners' Liability (Refs & Annos)

V.T.C.A., Civil Practice & Remedies Code § 75.002

§ 75.002. Liability Limited

Effective: June 15, 2007

Currentness

(a) An owner, lessee, or occupant of agricultural land:

(1) does not owe a duty of care to a trespasser on the land; and

(2) is not liable for any injury to a trespasser on the land, except for wilful or wanton acts or gross negligence by the owner, lessee, or other occupant of agricultural land.

(b) If an owner, lessee, or occupant of agricultural land gives permission to another or invites another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

(1) assure that the premises are safe for that purpose;

(2) owe to the person to whom permission is granted or to whom the invitation is extended a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted or to whom the invitation is extended.

(c) If an owner, lessee, or occupant of real property other than agricultural land gives permission to another to enter the premises for recreation, the owner, lessee, or occupant, by giving the permission, does not:

(1) assure that the premises are safe for that purpose;

(2) owe to the person to whom permission is granted a greater degree of care than is owed to a trespasser on the premises; or

(3) assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted.

(d) Subsections (a), (b), and (c) shall not limit the liability of an owner, lessee, or occupant of real property who has been grossly negligent or has acted with malicious intent or in bad faith.

(e) In this section, “recreation” means, in addition to its meaning under Section 75.001, the following activities only if the activities take place on premises owned, operated, or maintained by a governmental unit for the purposes of those activities:

- (1) hockey and in-line hockey;
- (2) skating, in-line skating, roller-skating, skateboarding, and roller-blading;
- (3) soap box derby use; and
- (4) paintball use.

(f) Notwithstanding Subsections (b) and (c), if a person enters premises owned, operated, or maintained by a governmental unit and engages in recreation on those premises, the governmental unit does not owe to the person a greater degree of care than is owed to a trespasser on the premises.

(g) Any premises a governmental unit owns, operates, or maintains and on which the recreational activities described in Subsections (e)(1)-(4) are conducted shall post and maintain a clearly readable sign in a clearly visible location on or near the premises. The sign shall contain the following warning language:

**WARNING**

TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF A GOVERNMENTAL UNIT FOR DAMAGES ARISING DIRECTLY FROM HOCKEY, IN-LINE HOCKEY, SKATING, IN-LINE SKATING, ROLLER-SKATING, SKATEBOARDING, ROLLER-BLADING, PAINTBALL USE, OR SOAP BOX DERBY USE ON PREMISES THAT THE GOVERNMENTAL UNIT OWNS, OPERATES, OR MAINTAINS FOR THAT PURPOSE.

(h) An owner, lessee, or occupant of real property in this state is liable for trespass as a result of migration or transport of any air contaminant, as defined in Section 382.003(2), Health and Safety Code, other than odor, only upon a showing of actual and substantial damages by a plaintiff in a civil action.

(i) Subsections (b) and (c) do not affect any liability of an owner, lessee, or occupant of real property for an injury occurring outside the boundaries of the real property caused by an activity described by Section 75.001(3)(P) that originates within the boundaries of the real property.

**Credits**

Acts 1985, 69th Leg., ch. 959, § 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 62, § 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 56, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 734, § 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg.,

§ 75.002. Liability Limited, TX CIV PRAC & REM § 75.002

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ch. 204, § 21.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 739, § 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 116, § 2, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 932, § 2, eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 227, § 1, eff. May 25, 2007; Acts 2007, 80th Leg., ch. 659, § 2, eff. June 15, 2007.

V. T. C. A., Civil Practice & Remedies Code § 75.002, TX CIV PRAC & REM § 75.002

Current through legislation effective May 26, 2021, of the 2021 Regular Session of the 87th Legislature. Some statute sections may be more current, but not necessarily complete through the whole Session. See credits for details.

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# EXHIBIT F

S266003\_RJN\_0023

West's Annotated Code of Maryland

Natural Resources

Title 5. Forests and Parks (Refs & Annos)

Subtitle 11. Public Recreation on Private Land and Land Owned by Local Governments (Refs & Annos)

MD Code, Natural Resources, § 5-1101

§ 5-1101. Definitions

Effective: October 1, 2017

Currentness

**In general**

(a) In this subtitle the following words have the meanings indicated.

**Charge**

(b)(1) “Charge” means price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for invitation or permission to enter or go upon land.

(2) “Charge” does not include:

(i) The sharing of game, fish, or other products of recreational use;

(ii) Benefits to the land arising from the recreational use; or

(iii) Contributions in kind or services to promote the management or conservation of resources on the land.

**Educational purpose**

(c) “Educational purpose” includes:

(1) Nature study;

(2) Farm visitations for purposes of learning about the farming operation;

(3) Practice judging of livestock, dairy cattle, poultry, other animals, agronomy crops, horticultural crops, or other farm products;

- (4) Organized visits to farms by school children, 4-H clubs, FFA clubs, and others as part of their educational programs;
- (5) Organized visits for purposes of participating in or observing historical reenactments as part of an educational or cultural program; and
- (6) Observation of historical, archaeological, or scientific sites.

**Land**

(d)(1) "Land" means land, roads, paths, trails, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to realty.

(2) "Land" does not include any structure or equipment provided by a unit of local government for the purpose of public recreation.

**Off-highway vehicle or OHV**

(e) "Off-highway vehicle" or "OHV" means a motor-assisted or motor-driven vehicle that is:

- (1) Designed for or capable of cross-country travel on or directly over land, snow, or other natural terrain; and
- (2) Not intended for use on public roads.

**Owner**

(f) "Owner" means the owner of any estate or other interest in real property, whether possessory or nonpossessory, including the grantee of an easement.

**Recreational purpose**

(g) "Recreational purpose" means any recreational pursuit.

**Credits**

Added by Acts 1973, 1st Sp. Sess., c. 4, § 1, eff. Jan. 1, 1974. Amended by Acts 1988, c. 692; Acts 1989, c. 639; Acts 1998, c. 215, § 1, eff. Oct. 1, 1998; Acts 2000, c. 352, § 1, eff. Oct. 1, 2000; Acts 2014, c. 607, § 1, eff. Oct. 1, 2014; Acts 2017, c. 746, § 1, eff. Oct. 1, 2017.

Formerly Art. 66C, § 410K.

MD Code, Natural Resources, § 5-1101, MD NAT RES § 5-1101

Current with emergency legislation effective through May 18, 2021, from the 2021 Regular Session of the General Assembly.



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# EXHIBIT G

S266003\_RJN\_0027

West's Revised Statutes of Nebraska Annotated  
Chapter 37. Game and Parks  
Article 7. Recreational Lands  
(d) Recreation Liability

Neb.Rev.St. § 37-729

37-729. Terms, defined

Currentness

For purposes of sections 37-729 to 37-736:

- (1) Land includes roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment thereon when attached to the realty;
- (2) Owner includes tenant, lessee, occupant, or person in control of the premises;
- (3) Recreational purposes includes, but is not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, waterskiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, or otherwise using land for purposes of the user; and
- (4) Charge means the amount of money asked in return for an invitation to enter or go upon the land.

**Credits**

Laws 1965, ch. 193, § 8, p. 590; Laws 1998, LB 922, § 343.

Codifications: R.S. 1943, (1993), § 37-1008.

Neb. Rev. St. § 37-729, NE ST § 37-729

Current through legislation effective April 8, 2021, of the 1st Regular Session of the 107th Legislature (2021)

West's Revised Statutes of Nebraska Annotated  
Chapter 37. Game and Parks  
Article 7. Recreational Lands  
(d) Recreation Liability

Neb.Rev.St. § 37-730

**37-730. Limitation of liability; purpose of sections**

**Currentness**

The purpose of sections 37-729 to 37-736 is to encourage owners of land to make available to the public land and water areas for recreational purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

**Credits**

Laws 1965, ch. 193, § 1, p. 589; Laws 1998, LB 922, § 344.

Codifications: R.S. 1943, (1993), § 37-1001.

Neb. Rev. St. § 37-730, NE ST § 37-730

Current through legislation effective May 27, 2021, of the 1st Regular Session of the 107th Legislature (2021)

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West's Revised Statutes of Nebraska Annotated  
Chapter 37. Game and Parks  
Article 7. Recreational Lands  
(d) Recreation Liability

Neb.Rev.St. § 37-731

37-731. Landowner; duty of care

Currentness

Subject to section 37-734, 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.

**Credits**

Laws 1965, ch. 193, § 2, p. 589; Laws 1998, LB 922, § 345.

Codifications: R.S. 1943, (1993), § 37-1002.

Neb. Rev. St. § 37-731, NE ST § 37-731

Current through legislation effective May 27, 2021, of the 1st Regular Session of the 107th Legislature (2021)

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West's Revised Statutes of Nebraska Annotated  
Chapter 37. Game and Parks  
Article 7. Recreational Lands  
(d) Recreation Liability

Neb.Rev.St. § 37-732

**37-732. Landowner; invitee; permittee; liability; limitation**

**Currentness**

Subject to section 37-734, 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 persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

**Credits**

Laws 1965, ch. 193, § 3, p. 589; Laws 1998, LB 922, § 346.

Codifications: R.S. 1943, (1993), § 37-1003.

Neb. Rev. St. § 37-732, NE ST § 37-732

Current through legislation effective May 27, 2021, of the 1st Regular Session of the 107th Legislature (2021)

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# EXHIBIT H

S266003\_RJN\_0032

West's Annotated Indiana Code

Title 14. Natural and Cultural Resources (Refs & Annos)

Article 22. Fish and Wildlife

Chapter 10. Wildlife Regulation

IC 14-22-10-2

14-22-10-2 Liability of landowners for injuries to persons or  
property caused by persons using premises for recreational purposes

Effective: July 1, 2019

Currentness

Sec. 2. (a) As used in this section and section 2.5 of this chapter, "governmental entity" means any of the following:

- (1) The government of the United States of America.
- (2) The state.
- (3) A county.
- (4) A city.
- (5) A town.
- (6) A township.
- (7) The following, if created by the Constitution of the United States, the Constitution of the State of Indiana, a statute, an ordinance, a rule, or an order:
  - (A) An agency.
  - (B) A board.
  - (C) A commission.
  - (D) A committee.



(E) A council.

(F) A department.

(G) A district.

(H) A public body corporate and politic.

(b) As used in this section and section 2.5 of this chapter, “monetary consideration” means a fee or other charge for permission to go upon a tract of land. The term does not include:

- (1) the gratuitous sharing of game, fish, or other products of the recreational use of the land;
- (2) services rendered for the purpose of wildlife management; or
- (3) contributions in kind made for the purpose of wildlife management.

(c) As used in this section and section 2.5 of this chapter, “owner” means a governmental entity or another person that:

- (1) has a fee interest in;
- (2) is a tenant, a lessee, or an occupant of; or
- (3) is in control of;

a tract of land.

(d) A person who goes upon or through the premises, including caves, of another:

- (1) with or without permission; and
- (2) either:

(A) without the payment of monetary consideration; or

(B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government;

for the purpose of swimming, camping, hiking, sightseeing, or accessing or departing from a trail, a greenway, or another similar area, or for any other purpose (other than the purposes described in section 2.5 of this chapter) does not have an assurance that the premises are safe for the purpose.

(e) The owner of the premises does not:

(1) assume responsibility; or

(2) incur liability;

for an injury to a person or property caused by an act or failure to act of other persons using the premises.

(f) This section does not affect the following:

(1) Existing Indiana case law on the liability of owners or possessors of premises with respect to the following:

(A) Business invitees in commercial establishments.

(B) Invited guests.

(2) The attractive nuisance doctrine.

(g) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant.

#### Credits

As added by P.L.1-1995, SEC.15. Amended by P.L.178-1995, SEC.3; P.L.138-1997, SEC.2; P.L.75-1998, SEC.2; P.L.29-2018, SEC.1, eff. July 1, 2018; P.L.113-2019, SEC.1, eff. July 1, 2019.

I.C. 14-22-10-2, IN ST 14-22-10-2

The statutes and Constitution are current with all legislation of the 2021 First Regular Session of the 122nd General Assembly effective through April 8, 2021.

# EXHIBIT I

S266003\_RJN\_0036

West's Oregon Revised Statutes Annotated  
Title 10. Property Rights and Transactions  
Chapter 105. Property Rights (Refs & Annos)  
Public Use of Lands (Refs & Annos)

O.R.S. § 105.672

105.672. Definitions for ORS 105.672 to 105.696

Currentness

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.

**Credits**

Laws 1995, c. 456, § 1; Laws 2007, c. 372, § 1, eff. June 12, 2007; Laws 2009, c. 532, § 1, eff. Jan. 1, 2010; Laws 2010, c. 52 (1st Sp. Sess.), § 1, eff. March 10, 2010; Laws 2017, c. 449, § 1, eff. June 22, 2017.

O. R. S. § 105.672, OR ST § 105.672

Current through Chapters 3, 13, and 14 enacted in the 2021 Regular Session of the 81st Legislative Assembly, which convened January 22, 2021, pending classification of undesignated material and text revision by the Oregon Reviser. See ORS 173.160.

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End of Document

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West's Oregon Revised Statutes Annotated  
Title 10. Property Rights and Transactions  
Chapter 105. Property Rights (Refs & Annos)  
Public Use of Lands (Refs & Annos)

O.R.S. § 105.682

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

Currentness

(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.

**Credits**

Laws 1995, c. 456, § 3; Laws 2009, c. 532, § 4, eff. Jan. 1, 2010.

O. R. S. § 105.682, OR ST § 105.682

Current through laws enacted in the 2020 Regular Session of the 80th Legislative Assembly, which adjourned sine die March 3, 2020; laws enacted in the First Special Session of the 80th Legislative Assembly, which adjourned sine die June 26, 2020; laws enacted during the Second Special Session of the 80th Legislative Assembly, which adjourned sine die August 10, 2020; ballot measures approved by the electorate in the November 3, 2020 General Election; and laws enacted in the Third Special Session of the 80th Legislative Assembly, which adjourned sine die December 21, pending classification of undesignated material and text revision by the Oregon Reviser. See ORS 173.160.

**PROOF OF SERVICE**

***Hoffmann v. Young et al.***

**Case No. S266003**

**Court of Appeal Case No. B292539**

**STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Santa Barbara, State of California. My business address is 211 Equestrian Avenue, Santa Barbara, CA 93101.

On June 9, 2021, I served true copies of the following document(s) described as APPELLANT'S EXHIBITS IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Andrade Law Offices, APC's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 9, 2021, at Santa Barbara, California.

/s/ Angelic Robinson

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Angelic Robinson

**SERVICE LIST**  
***Hoffmann v. Young et al.***  
**Case No. S266003**  
**Court of Appeal Case No. B292539**

COUNSEL OF RECORD	PARTY REPRESENTED
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<p style="text-align: center;">Dean A. Bochner  Joshua C. McDaniel  Horvitz &amp; Levy, LLP  3601 West Olive Avenue, 8<sup>th</sup> Floor  Burbank, CA 91505-4681  (818) 995-0800 • Fax: (844) 497-6592  chu@horvitzlevy.com  dbochner@horvitzlevy.com  jmcDaniel@horvitzlevy.com</p>	<p style="text-align: center;">Defendants and Respondents  Christina M. Young, Donald G.  Young Jr., Gunner Young, and  Dillon Young  (Via TrueFiling)</p>
<p style="text-align: center;">Hon. Linda D. Hurst  San Luis Obispo County Superior  Court Paso Robles Branch  901 Park Street  Paso Robles, CA 93446  (805) 706-3600</p>	<p style="text-align: center;">Trial Court Judge Case No.  16CVP0060 (Via U.S. Mail)</p>
<p style="text-align: center;">Office of the Clerk  California Court of Appeal  Second Appellate District, Division 6  Court Place  200 East Santa Clara Street Ventura,  CA 93001  (805) 641-4700</p>	<p style="text-align: center;">Case No. B292539 (Via  TrueFiling)</p>



**STATE OF CALIFORNIA**  
Supreme Court of California

**PROOF OF SERVICE**

**STATE OF CALIFORNIA**  
Supreme Court of California

Case Name: **HOFFMANN v.**  
**YOUNG**

Case Number: **S266003**

Lower Court Case Number: **B292539**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **contact@andrade4law.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

<b>Filing Type</b>	<b>Document Title</b>
REQUEST FOR JUDICIAL NOTICE	S266003 _ APPELLANT'S REQUEST FOR JUDICIAL NOTICE _ 06092021

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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

6/9/2021

Date

/s/Steven Andrade

---

Signature

Andrade, Steven (079718)

---

Last Name, First Name (PNum)

Andrade Law Offices

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Law Firm