

IN THE SENATE

SENATE BILL NO. 1020

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO LIABILITY OF LANDOWNERS; AMENDING SECTION 36-1604, IDAHO CODE,  
TO REVISE PROVISIONS REGARDING THE LIMITATION OF LIABILITY OF LANDOWN-  
ERS TOWARD PERSONS ENTERING LAND FOR RECREATIONAL PURPOSES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby  
amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Pur-  
pose. The purpose of this section is to encourage owners of land to make  
land, airstrips and water areas available to the public without charge for  
recreational purposes by limiting ~~their~~ the owner's liability toward per-  
sons entering ~~thereon~~ the owner's land for such recreational purposes.

(b) Definitions. As used in this section:

(1) "Airstrips" means either improved or unimproved landing areas  
used by pilots to land, park, take off, unload, load and taxi aircraft.  
Airstrips shall not include landing areas that are or may become eli-  
gible to receive federal funding pursuant to the federal airport and  
airway improvement act of 1982 and subsequent amendments thereto.

(2) "Governmental entity" shall have the same meaning as provided in  
section 6-902, Idaho Code.

(3) "Land" means private or public land, roads, airstrips, trails,  
parks, campgrounds, water, reservoirs, watercourses, hydroelectric  
dams, irrigation dams, groundwater recharge sites, canals, laterals,  
ditches, drains, water control structures, headgates, private or pub-  
lic ways and buildings, structures, and machinery or equipment when  
attached to or used on the realty land.

(4) "Owner" means the possessor of a fee interest, right-of-way, or  
easement, a tenant, lessee, licensee, occupant, operator, permit  
holder, or person in control of, or with a right or duty to maintain, the  
premises land.

(5) "Recreational purposes" ~~includes,~~ means the pursuit of personal  
enjoyment or pleasure on land when done without charge by the owner  
of the land, including but is not limited to, any of the following  
activities or any combination thereof: hunting, fishing, shooting,  
trapping, swimming, boating, rafting, tubing, camping, picnicking,  
hiking, pleasure driving, the flying of aircraft, bicycling, running,  
playing on playground equipment, skateboarding, athletic competition,  
nature study, waterskiing, animal riding, motorcycling, snowmobil-  
ing, operating recreational vehicles and off-highway vehicles, winter  
sports, ~~and~~ viewing or enjoying historical, archeological, scenic, ge-  
ological or scientific sites, ~~when done without charge of the owner and~~

1 traveling across or being upon the land incidental to or ancillary to  
 2 any of the recreational purposes described in this subsection.

3 (c) Owner Exempt from Warning. An owner of land owes no duty of care to  
 4 keep the ~~premises~~ land safe for entry by others for recreational purposes,  
 5 or to give any warning of a dangerous condition, use, structure, or activity  
 6 on such ~~premises~~ land to persons entering for such purposes. Neither the in-  
 7 stallation of a sign or other form of warning of a dangerous condition, use,  
 8 structure, or activity, nor any modification made for the purpose of improv-  
 9 ing the safety of others, nor the failure to maintain or keep in place any  
 10 sign, other form of warning, or modification made to improve safety, shall  
 11 create liability on the part of an owner of land where there is no other basis  
 12 for such liability.

13 (d) Owner Assumes No Liability. An owner of land or equipment who ei-  
 14 ther directly or indirectly invites or permits without charge any person to  
 15 use such property for recreational purposes does not thereby:

16 (1) Extend any assurance that the ~~premises are~~ land is safe for any pur-  
 17 pose.

18 (2) Confer upon such person the legal status of an invitee or licensee  
 19 to whom a duty of care is owed.

20 (3) Assume responsibility for or incur liability for any injury to per-  
 21 son or property caused by an act ~~of~~ or omission of such persons.

22 (e) Provisions Apply to Leased Public Land. Unless otherwise agreed  
 23 in writing, the provisions of this section shall be deemed applicable to the  
 24 duties and liability of an owner of land who grants public access for recre-  
 25 ational purposes pursuant to a lease or other agreement with a governmental  
 26 entity as long as the ~~landowner~~ owner of the land does not directly charge  
 27 individual members of the public for such access, regardless of whether the  
 28 governmental entity provides ~~landowners~~ the owner with remuneration.

29 (f) Provisions Apply to Land Subject to a Conservation Easement. Un-  
 30 less otherwise agreed in writing, the provisions of this section shall be  
 31 deemed applicable to the duties and liability of an owner of land subject to a  
 32 conservation easement to any governmental entity or nonprofit organization.

33 (g) Provisions Apply to Funding, Maintenance or Improvements. The pro-  
 34 visions of this section shall be deemed applicable to the duties and liabil-  
 35 ity of any governmental entity, nongovernmental organization or person that  
 36 provides funds, reasonably performs maintenance, reasonably makes or sup-  
 37 ports improvements, holds conservation easements or takes similar reason-  
 38 able action regarding land made available to the public without charge for  
 39 recreational purposes.

40 (h) Owner Not Required to Keep Land Safe. Nothing in this section shall  
 41 be construed to:

42 (1) Create a duty of care or ground of liability for injury to persons or  
 43 property.

44 (2) Relieve any person using the land of another for recreational  
 45 purposes from any obligation which he may have in the absence of this  
 46 section to exercise care in his use of such land and in his activities  
 47 thereon, or from legal consequences or failure to employ such care.

48 (3) Apply to any person or persons who for compensation permit the land  
 49 to be used for recreational purposes.

1           (i) User Liable for Damages. Any person using the land of another for  
2 recreational purposes, with or without permission, shall be liable for any  
3 damage to land, property, livestock or crops ~~which he~~ that the person may  
4 cause while on said ~~property~~ land, in addition to all remedies provided in  
5 section 6-202, Idaho Code, in the event the person has committed a civil  
6 trespass.