



Vermont's Landowner Liability Law

12 V.S.A. Sec. 5791-5795

In 1998, the Vermont Legislature updated the state statute protecting landowners who let the public use their land and water free of charge for recreational purposes. The law was rewritten to encourage landowners to open their lands to recreational users and give landowners greater legal protection from personal injury or property damage claims by these users.

Vermont's landowner liability law covers:

- "Open and undeveloped" land (including paths and trails, land that is posted, land with fences, land with forestry and agricultural-related structures, land within 500 feet of residential or commercial buildings, and land within city limits);
- Water (including springs, streams, rivers, ponds, lakes and other water courses);
- Fences;
- Structures and fixtures used to enter the land (including bridges and walkways).

The law does not cover:

- Individuals who are invited onto the land by the owner for a reason other than recreation,
- Those who pay a fee to the landowner for recreational use of the land,
- Lands owned by a municipality or the state.

Landowner liability is the same whether or not there is a conservation or recreation easement on the property.

The law states that an owner shall not be liable for property damage or personal injury sustained by a person who does not pay a fee

to the owner and enters upon the owner's land for a recreational use, unless the damage or injury is a result of intentional or extremely reckless misconduct by the owner. The law does not require the landowner to inspect the land to discover dangerous conditions, but if the owner knows of an unobvious, extremely dangerous hazard such as an unmarked well or quicksand on the property, then the owner should take some action to warn recreational users. The landowner does not have to ensure that the land is completely safe for recreational use, but the landowner may not intentionally create a risk to recreational users.

The law does not relieve the recreational user from exercising due care for his or her own safety while using the land.

A landowner is also not liable for property damage or personal injury sustained by a recreational user who proceeds to use equipment, machinery, personal property, or structures and fixtures, unless the damage or injury is the result of intentional or extremely reckless misconduct of the owner. Permission to enter private property for recreation does not include permission to enter structures or use equipment, fixtures, machinery, or personal property."

"Recreational uses" are broadly defined by the law to include any activities undertaken for recreational, educational, or conservation purposes such as hunting, fishing, trapping, guiding, camping, biking, in-line skating, jogging, skiing, swimming, diving, watersports, rock climbing, hand gliding, caving, boating, hiking, riding an animal or vehicle, picking wild or cultivated plants, picnicking, gleaning, rock collecting, nature

study, outdoor sports, visiting or enjoying archeological, scenic, natural or scientific sites, or other similar activities. Recreational use also includes any unpaid activity to protect and maintain the land for recreational uses.

The law does not limit landowners' property rights. The property owner is not subject to any land use restrictions or property claims from recreational users, and the property owner is free to enter into agreements with

recreational users to supplement the limitations and duties in the law.

Homeowner's insurance may provide additional protection against a claim of liability because these policies usually cover the home, adjacent structures, surrounding acreage, and even other parcels of vacant land the homeowner owns, so long as it is not being actively used for farming, timbering, or for-profit recreation operations.

For the complete text of Vermont's landowner liability law see :

<http://www.leg.state.vt.us/statutes/statutes2.htm>
Choose "Vermont Statutes at LexisNexis."

On the LexisNexis index page choose Vermont statutes, Title 12, Part 9, Chapter 203.



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