

Appendix D: State Liability Statutes

State of Arizona

Section 1. Title 33, Arizona Revised Statutes, Chapter 12, Article 1, Section 33-1551

CHAPTER 12

LIABILITIES AND DUTIES ON PROPERTY USED FOR EDUCATION AND RECREATION

ARTICLE 1. GENERAL PROVISIONS

§ 33-1551. Duty of owner, lessee or occupant of premises to recreational users; liability; definitions

A. A public or private owner, easement holder, lessee or occupant of a premises is not liable to a recreational or educational user except upon a showing that the owner, easement holder, lessee or occupant was guilty of wilful, malicious or grossly negligent conduct which was a direct cause of the injury to the recreational or educational user.

B. As used in this section:

1. "Educational user" means a person to whom permission has been granted or implied without the payment of an admission fee or other consideration to enter upon premises to participate in an educational program, including but not limited to, the viewing of historical, natural, archaeological or scientific sights.

2. "Premises" means agricultural, range, open space, park, flood control, mining, forest or railroad lands, and any other similar lands, wherever located, which are available to a recreational or educational user, including, but not limited to, paved or unpaved multi-use trails and special purpose roads or trails not open to automotive use by the public and any building¹ improvement, fixture, water conveyance system, body of water, channel, canal or lateral, road, trail or structure on such lands.

3. "Recreational user" means a person to whom permission has been granted or implied without the payment of an admission fee or other consideration to travel across or to enter upon premises to hunt, fish, trap, camp, hike, ride, exercise, swim or engage in similar pursuits. The purchase of a state hunting, trapping or fishing license is not the payment of an admission fee or other consideration as provided in this section.

C. This section does not limit the liability which otherwise exists for maintaining an attractive nuisance, except with respect to dams, channels, canals and lateral ditches used for flood control, agricultural, industrial, metallurgical or municipal purposes.

Amended by Laws 1993, Ch. 90, § 25.

¹ So in original. Should probably be a comma following "building".

State of California

CALIFORNIA CIVIL CODE SECTION 846

§ 846. Permission to enter for recreational purposes

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 such premises to persons entering for such purpose, except as provided in this section.

A "recreational purpose," as used in this section, includes such activities 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, 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 such 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 such 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.
