

161A.43 Duty of property owners liability.

To conserve the fertility, general usefulness, and value of the soil and soil resources of this state, and to prevent the injurious effects of soil erosion, it is hereby made the duty of the owners of real property in this state to establish and maintain soil and water conservation practices or erosion control practices, as required by the regulations of the commissioners of the respective soil and water conservation districts. As used in this section, "*owners of real property in this state*" includes each state government agency, each political subdivision of the state and each agency of such a political subdivision which has under its control publicly owned land, including but not limited to agricultural land, forests, parks, the grounds of state educational, penal and human service institutions, public highways, roads and streets, and other public rights of way.

A landowner shall not be liable for a claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent installation, construction, or reconstruction of a soil and water conservation practice or an erosion control practice that was installed, constructed, or reconstructed in accordance with generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A soil and water conservation practice or an erosion control practice installed, constructed, or reconstructed in compliance with rules adopted by the division and currently in effect shall be deemed to be installed, constructed, or reconstructed according to generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A claim shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing soil and water conservation practice or erosion control practice to a new, changed, or altered design standard. This paragraph does not apply to a claim based on a failure of a landowner to upgrade, improve, or alter a soil and water conservation practice or erosion control practice in violation of law. This paragraph does not apply to claims based upon gross negligence.

[C73, 75, 77, 79, 81, § 467A.43]

92 Acts, ch 1184, § 4; 92 Acts, ch 1239, § 50

C93, § 161A.43

94 Acts, ch 1023, §16