

February 10, 1967
Place On Calendar
Judiciary 3-3, Pass as Amended 5-10

House File 151

By COMMITTEE ON CONSERVATION

Passed House, Date 2-28-67

Passed Senate, Date 6-6-67

Vote: Ayes 106 Nays 12

Vote: Ayes 52 Nays 4

*Passed House
as amended by
Senate 6-9
98-7*

A BILL FOR

An Act to encourage landowners to make land and water available to the public by limiting liability in connection therewith.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. The purpose of this Act is to encourage owners
2 of land to make land and water areas available to the public
3 for recreational purposes by limiting their liability toward
4 persons entering thereon for such purposes.

1 Sec. 2. As used in this Act, unless the context otherwise
2 requires:

3 1. "Land" means land, roads, water, water courses, private
4 ways and buildings, structures, and machinery or equipment
5 when attached to the realty.

6 2. "Holder" means the possessor of a fee interest, a
7 tenant, lessee, occupant or person in control of the premises.

8 3. "Recreational purpose" includes, but is not limited to,
9 any of the following or any combination thereof: hunting,
10 fishing, swimming, boating, camping, picnicking, hiking,
11 pleasure driving, nature study, water skiing, winter sports,
12 and viewing or enjoying historical, archeological, scenic,
13 or scientific sites.

14 4. "Charge" means the admission price or fee asked in re-
15 turn for invitation or permission to enter or go upon the
16 land.

1 Sec. 3. Except as specifically recognized by or provided
2 in section six (6) of this Act, an owner of land owes no duty
3 of care to keep the premises safe for entry or use by others

4 for recreational purposes, or to give any warning of a dan-
5 gerous condition, use, structure, or activity on such premises
6 to persons entering for such purposes.

1 Sec. 4. Except as specifically recognized by or provided in
2 section six (6) of this Act, a holder of land who either directly
3 or indirectly invites or permits without charge any person to
4 use such property for recreational purposes does not thereby:

5 1. Extend any assurance that the premises are safe for any
6 purpose.

7 2. Confer upon such person the legal status of an invitee
8 or licensee to whom the duty of care is owed.

9 3. Assume responsibility for or incur liability for any
10 injury to person or property caused by an act or omission of
11 such persons.

1 Sec. 5. Unless otherwise agreed in writing, the provisions
2 of sections three (3) and four (4) of this Act shall be deemed
3 applicable to the duties and liability of an owner of land
4 leased, or any interest or right therein transferred to, or the
5 subject of any agreement with, the United States or any agency
6 thereof, or the state or any agency or subdivision thereof,
7 for recreational purposes.

1 Sec. 6. Nothing in this Act limits in any way any liability
2 which otherwise exists:

3 1. For willful or malicious failure to guard or warn against
4 a dangerous condition, use, structure, or activity.

5 2. For injury suffered in any case where the owner of land
6 charges the person or persons who enter or go on the land for
7 the recreational use thereof, except that in the case of land or
8 any interest or right therein, leased or transferred to, or the
9 subject of any agreement with, the United States or any agency
10 thereof or the state or any agency thereof or subdivision thereof,
11 any consideration received by the holder for such lease, interest,
12 right or agreement, shall not be deemed a charge within the mean-
13 ing of this section.

1 Sec. 7. Nothing in this Act shall be construed to:

2 1. Create a duty of care or ground of liability for injury
3 to persons or property.

4 2. Relieve any person using the land of another for recre-
5 ational purposes from any obligation which he may have in the
6 absence of this Act to exercise care in the use of such land
7 and in his activities thereon, or from the legal consequences
8 of failure to employ such care.

EXPLANATION

Recent years in Iowa have shown a growing need for additional recreational areas for use by our citizenry. There are many areas of private land in Iowa being managed on a business basis for recreational purposes and no reason seems to exist to treat them other than any such private enterprise would expect but for the private landowner who is willing to make his land available to the general public without charge we need to give him encouragement through the media of laws that will spell out and define his liabilities or lack of same.

In about a third of our states, there has been legislation passed which limits the liability of private owners who make their premises available for one or more public recreational uses. These laws have been enacted because it is not reasonable to expect such owners to undergo the risk of liability for injury to persons attendant upon the use of the land from whom the accommodating owner receives no compensation or other favor in return.

1 Amend House File 151 as follows: [REDACTED]
 2 1. Section 2, strike all of subsection one (1) and
 3 insert in lieu thereof:
 4 "1. 'Land' means land not within the corporate limits of
 5 a municipality used for agricultural purposes, including timber,
 6 grasslands and the privately owned roads, water, water courses,
 7 private ways and buildings, structures and machinery or
 8 equipment appurtenant thereto."
 9 2. Amend Section 6, by adding a new sub-
 10 section thereto:
 11 "3. For injury suffered from a hidden danger known to the
 12 holder who had actual knowledge of the presence of the person
 13 who was injured and made no effort to warn of the danger."

Filed - *Withdrawn 2-28*
 February 23, 1967

JOHNSTON of Polk.

1 Amend House File 151, Section two (2), line five
 2 (5), by deleting the period after the word "realty"
 3 and adding the following: "when such land is located
 4 outside of the city limits of all incorporated
 5 municipalities."

Filed - *Withdrawn 2-28*
 February 23, 1967

BOWIN of Black Hawk.

1 Amend House File 151, Section six (6) line three (3) by
 2 deleting the words, "willful or malicious".

Filed
 February 23, 1967

JOHNSTON of Polk.

1 Amend the Johnston of Polk amendment to House File
 2 151, dated February 27, by striking in lines 3
 3 and 4 the words "not within the corporate limits
 4 of a municipality".

Filed and adopted
 February 28, 1967

CAMP of Clinton.

1 Amend Section Two (2) of House File 151 by striking all of
 2 subsection one (1) and inserting in lieu thereof:
 3 "1. 'Land' means land not within the corporate limits of
 4 a municipality used for agricultural purposes, including marsh-
 5 timber, grasslands and the privately owned roads, water, lands,
 6 water courses, private ways and buildings, structures and
 7 machinery or equipment appurtenant thereto."

Filed - *Adopted 2-28*
 February 27, 1967

JOHNSTON of Polk.

1 Amend House File 151 as follows:

2 By inserting in line 1, section 1, after the word "encourage"
the

3 word "private".

4 By striking from line 9, section 2, the period (.) and by
inserting

5 in lieu thereof the following:

6 "; provided, however, holder shall not mean the state of Iowa,
7 its political subdivisions, or any public body or any agencies,
8 departments, boards, or commissions thereof."

9 By striking from lines 10 and 11, section 2, the words "in-
cludes,

10 but is not limited to, any of" and by inserting in lieu thereof
the

11 word "means".

12 By striking from line 15, section 2, the period (.) and by
inserting

13 in lieu thereof the words "while going to and from or actually
engaged

14 therein."

15 By inserting in line 16, section 2, after the word "means" the
16 words "any consideration,".

17 By adding a new subsection to section 7 as follows:

18 "Amend, repeal or modify the common law doctrine of attractive
19 nuisance."

As Adopted by the Senate

House Concurred 6-9

1 Amend House File 151, Section Two (2) subsection three (3)
2 by deleting the period in line thirteen (13) and inserting the
3 following thereafter "provided a purpose of such activity is
4 not social intercourse with the holder or members of his
5 household".

Filed and lost
February 28, 1967

JOHNSTON of Polk.

1 Amend House File 151 as amended as follows:

2 1. By inserting in line one (1) of section one (1) after the
3 word, "encourage" the word, "private".

4 2. Amend section two (2) as follows:

5 a. By striking in line nine (9) the period (.) and by in-
6 serting in lieu thereof the following:

7 "; provided, however, holder shall not mean the state of
8 Iowa, its political subdivisions, or any public body or any
9 departments, boards, or commissions thereof."

10 b. By striking in lines ten (10) and eleven (11) the words,
11 "includes, but is not limited to, any of" and by inserting in lieu
12 thereof the word, "means".

13 c. By striking from line twelve (12) the word, "swimming,".

14 d. By striking from line thirteen (13) the words, "water
15 skiing, winter sports,".

16 e. By striking in line fifteen (15) the period (.) and by
17 inserting in lieu thereof the words, "while going to and from or
18 actually engaged therein."

19 f. By inserting in line sixteen (16) after the word "means"
20 the words, "any consideration,".

Filed - *Adopted as amended 5-23*
May 10, 1967

By JUDICIARY COMMITTEE

1 Amend House File 151 by adding a new subsection to
2 section seven (7) as follows:

3 "3. Amend, repeal or modify the common law doctrine
4 of attractive nuisance."

Filed - *Adopted 5-23-67*
May 22, 1967

By RILEY

1 Amend the Judiciary Committee amendment to House File
2 151 filed May 10, 1967 by striking all of lines thirteen (13),
3 fourteen (14) and fifteen (15) thereof and re-designating the
4 remaining sub-paragraphs.

Filed - *adopted 5-23-67*
May 22, 1967

By HEABERLIN

1 Amend House File 151 as follows:

2 1. by striking the word "either" on line 2 of section 4.

3 2. By striking line 3 of section 4 and inserting in lieu
4 thereof the following: "invites by posting a sign at
5 the entrance or entrances to such recreational facility and
6 permits entry without charge, any person to".

Filed and adopted *Motion to Reconsider filed 5-24*
May 23, 1967 *Last 6-6* *previded 6-6* By NEU