

**House File 605 - Introduced**

HOUSE FILE 605

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 201)

**A BILL FOR**

1 An Act related to the liability of a land holder for the public  
2 use of private lands and waters.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 461C.1, Code 2013, is amended to read as  
2 follows:

3 **461C.1 Purpose.**

4 1. The purpose of this chapter is to encourage private  
5 owners holders of land to make land and water areas available  
6 to the public for recreational purposes and for urban deer  
7 control by limiting an owner's a holder's liability toward  
8 persons entering onto the owner's holder's property for such  
9 purposes. The provisions of this chapter shall be construed  
10 liberally and broadly in favor of private holders of land to  
11 accomplish the purposes of this chapter.

12 2. The general assembly declares that the holding of *Sallee*  
13 *v. Stewart*, (No. 11-0892) (Iowa 2013) is abrogated in its  
14 entirety as contrary to the general assembly's intent for the  
15 construction of this chapter.

16 Sec. 2. Section 461C.2, subsections 3 and 5, Code 2013, are  
17 amended to read as follows:

18 3. "*Land*" means private land located in a municipality  
19 including abandoned or inactive surface mines, ~~;~~ caves, and;  
20 land used for agricultural purposes, including; marshlands,  
21 timber, and grasslands; and the privately owned roads,  
22 water paths, trails, waters, water courses, private ways  
23 and exteriors and interiors of buildings, structures, and  
24 machinery, or equipment appurtenant thereto located on such  
25 land. "*Land*" includes land that is not open to the general  
26 public.

27 5. "*Recreational purpose*" means any activity undertaken  
28 for recreation, sport, exercise, education, relaxation, or  
29 pleasure, including but not limited to the following or any  
30 combination thereof: Hunting, trapping, horseback riding,  
31 fishing, swimming, boating, camping, picnicking, hiking,  
32 pleasure driving, motorcycling, all-terrain vehicle riding,  
33 nature study, water skiing, snowmobiling, ~~other summer~~  
34 ~~and winter sports or games, and~~ agricultural tours, and  
35 viewing or enjoying historical, archaeological, scenic, or

1 scientific sites ~~while going to and from or actually engaged~~  
2 ~~therein.~~ "Recreational purpose" includes the activity of  
3 accompanying another person who is engaging in such activities.  
4 "Recreational purpose" is not limited to active engagement in  
5 such activities, but also includes entry onto, use of, passage  
6 over, and presence on any part of the land in connection with  
7 such activities.

8 Sec. 3. Section 461C.3, Code 2013, is amended to read as  
9 follows:

10 **461C.3 Liability of ~~owner~~ holder limited.**

11 1. Except as specifically recognized by or provided in  
12 section 461C.6, ~~an owner~~ a holder of land ~~owes no~~ does not  
13 owe a duty of care to keep the premises safe for entry or use  
14 by others for recreational purposes or urban deer control, or  
15 to give any warning of a dangerous condition, use, structure,  
16 or activity on such premises to persons entering for such  
17 purposes.

18 2. Except as specifically recognized or provided in section  
19 461C.6, a holder of land does not owe a duty of care to others  
20 because the holder is guiding, directing, supervising, or  
21 participating in any recreational purpose or urban deer control  
22 undertaken by others on the holder's land.

23 Sec. 4. Section 461C.4, Code 2013, is amended by adding the  
24 following new subsection:

25 NEW SUBSECTION. 2A. Assume a duty of care to a person  
26 because the holder is guiding, directing, supervising, or  
27 participating in any recreational purpose or urban deer control  
28 undertaken by the person on the holder's land.

29 Sec. 5. Section 461C.5, Code 2013, is amended to read as  
30 follows:

31 **461C.5 Duties and liabilities of ~~owner~~ holder of leased land.**

32 Unless otherwise agreed in writing, the provisions of  
33 sections 461C.3 and 461C.4 shall be deemed applicable to the  
34 duties and liability of ~~an owner~~ a holder of land leased,  
35 or any interest or right therein transferred to, or the

1 subject of any agreement with, the United States or any agency  
2 thereof, or the state or any agency or subdivision thereof, for  
3 recreational purposes or urban deer control.

4 Sec. 6. Section 461C.6, Code 2013, is amended to read as  
5 follows:

6 **461C.6 When liability lies against owner holder.**

7 Nothing in this chapter limits in any way any liability which  
8 otherwise exists:

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

11 2. For injury suffered in any case where the owner holder of  
12 land charges the person or persons who enter or go on the land  
13 for the recreational use thereof or for deer hunting, except  
14 that in the case of land or any interest or right therein,  
15 leased or transferred to, or the subject of any agreement  
16 with, the United States or any agency thereof or the state or  
17 any agency thereof or subdivision thereof, any consideration  
18 received by the holder for such lease, interest, right or  
19 agreement shall not be deemed a charge within the meaning of  
20 this section.

21

EXPLANATION

22 This bill relates to the public use of certain private  
23 lands and waters. The bill provides that Code chapter 461C  
24 shall be liberally and broadly construed in favor of private  
25 holders of land to encourage them to make their land and water  
26 areas available to the public for recreational purposes and for  
27 urban deer control, by limiting the land holders' liability to  
28 persons who enter onto their land to pursue such activities.

29 The bill specifically abrogates the recent holding rendered  
30 by the Iowa Supreme Court in *Sallee v. Stewart*, (No. 11-0892)  
31 (Iowa 2013).

32 The bill broadens the definition of what land and water areas  
33 are included in such limitations of liability and provides that  
34 such land does not have to be open to the general public to be  
35 subject to the protections of Code chapter 461C.

1 The bill also broadens the definition of what activities  
2 constitute a "recreational purpose" by specifying additional  
3 activities that are included and providing that the Code  
4 chapter's protections are not limited to the activities listed.  
5 In addition, the bill provides that a person engages in a  
6 recreational purpose by accompanying another person who is  
7 engaged in a recreational purpose. "Recreational purpose" is  
8 not limited to active engagement in the activities but also  
9 includes entry onto, use of, passage over, and presence on any  
10 part of the land in connection with such activities.

11 The bill provides that a holder of land does not owe or  
12 assume a duty of care to others because the holder is guiding,  
13 directing, supervising, or participating in any recreational  
14 purpose or urban deer control undertaken by others on the  
15 holder's land.