

House Study Bill 240 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON KOESTER)

A BILL FOR

1 An Act relating to the liability of a land holder for the
2 public use of private lands and waters for a recreational
3 purpose or urban deer control.
4 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 The purpose of this chapter is to encourage private ~~owners~~
5 holders of land to make land and water areas available to the
6 public for a recreational purposes purpose 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 Sec. 2. Section 461C.2, subsections 3, 5, and 6, Code 2013,
13 are amended to read as follows:

14 3. "Land" means private land ~~located in a municipality~~
15 including that is one or any combination of the following:
16 abandoned or inactive surface mines, caves, and; land used
17 for agricultural purposes, including; marshlands, timber,;
18 grasslands; and or the privately owned roads, water paths,
19 trails, waters, water courses, private ways and exteriors and
20 interiors of buildings, structures, and machinery, or equipment
21 appurtenant thereto. "Land" includes land that is not open to
22 the general public. "Land" also includes private land located
23 in a municipality in connection with and while being used for
24 urban deer control.

25 5. "Recreational purpose" means ~~the following or any~~
26 ~~combination thereof: Hunting, trapping, horseback riding,~~
27 ~~fishing, swimming, boating, camping, picnicking, hiking,~~
28 ~~pleasure driving, motorcycling, all-terrain vehicle riding,~~
29 ~~nature study, water skiing, snowmobiling, other summer~~
30 ~~and winter sports, and viewing or enjoying historical,~~
31 ~~archaeological, scenic, or scientific sites while going to and~~
32 ~~from or actually engaged therein~~ includes but is not limited
33 to any activity undertaken for recreation, sport, exercise,
34 education, relaxation, pleasure, or any combination of those
35 activities. "Recreational purpose" includes the activity of

1 accompanying another person who is engaging in such activities.
2 "Recreational purpose" is not limited to active engagement in
3 such activities, but includes entry onto, use of, passage over,
4 and presence on any part of the land in connection with or
5 during the course of such activities.

6 6. "Urban deer control" means deer hunting with a bow
7 and arrow on private land in a municipality, without charge,
8 as authorized by a municipal ordinance, for the purpose
9 of reducing or stabilizing an urban deer population in the
10 municipality. "Urban deer control" is not limited to active
11 engagement in the activity of urban deer control but includes
12 entry onto, use of, passage over, and presence on any part
13 of the land in connection with or during the course of such
14 activity.

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

17 **461C.3 Liability of owner holder limited.**

18 1. Except as specifically recognized by or provided in
19 section 461C.6, an ~~owner~~ a holder of land ~~owes no~~ does not
20 owe a duty of care to keep the premises safe for entry or use
21 by others for ~~a recreational purposes~~ purpose or urban deer
22 control, or to give any warning of a dangerous condition, use,
23 structure, or activity on such premises to persons entering for
24 such purposes.

25 2. Except as specifically recognized by or provided in
26 section 461C.6, a holder of land does not owe a duty of care
27 to others solely because the holder is guiding, directing,
28 supervising, or participating in any recreational purpose or
29 urban deer control undertaken by others on the holder's land.

30 Sec. 4. Section 461C.4, unnumbered paragraph 1, Code 2013,
31 is amended to read as follows:

32 Except as specifically recognized by or provided in section
33 461C.6, a holder of land who either directly or indirectly
34 invites or permits without charge any person to use such
35 property for a recreational ~~purposes~~ purpose or urban deer

1 control does not thereby:

2 Sec. 5. Section 461C.4, Code 2013, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 2A. Assume a duty of care to such person
5 solely because the holder is guiding, directing, supervising,
6 or participating in any recreational purpose or urban deer
7 control undertaken by the person on the holder's land.

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

10 **461C.5 Duties and liabilities of ~~owner~~ holder of leased land.**

11 Unless otherwise agreed in writing, the provisions of
12 sections 461C.3 and 461C.4 shall be deemed applicable to the
13 duties and liability of ~~an owner~~ a holder of land leased, or
14 any interest or right therein transferred to, or the subject of
15 any agreement with, the United States or any agency thereof,
16 or the state or any agency or subdivision thereof, for a
17 recreational ~~purposes~~ purpose or urban deer control.

18 Sec. 7. Section 461C.6, Code 2013, is amended to read as
19 follows:

20 **461C.6 When liability lies against ~~owner~~ holder.**

21 Nothing in this chapter limits in any way any liability which
22 otherwise exists:

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

25 2. For injury suffered in any case where the ~~owner~~ holder of
26 land charges the person or persons who enter or go on the land
27 for the recreational use thereof or for deer hunting, except
28 that in the case of land or any interest or right therein,
29 leased or transferred to, or the subject of any agreement
30 with, the United States or any agency thereof or the state or
31 any agency thereof or subdivision thereof, any consideration
32 received by the holder for such lease, interest, right, or
33 agreement shall not be deemed a charge within the meaning of
34 this section.

35 Sec. 8. Section 461C.7, subsection 2, Code 2013, is amended

1 to read as follows:

2 2. Relieve any person using the land of another for a
3 recreational ~~purposes~~ purpose or urban deer control from any
4 obligation which the person may have in the absence of this
5 chapter to exercise care in the use of such land and in the
6 person's activities thereon, or from the legal consequences of
7 failure to employ such care.

8

EXPLANATION

9 This bill relates to the public use of certain private lands
10 and waters. The bill amends Code chapter 461C whose purpose,
11 set out in Code section 461C.1, is to encourage private owners
12 of land to make their land and water areas available to the
13 public for recreational purposes and for urban deer control,
14 by limiting the landowners' liability to persons who enter
15 onto their land to pursue such activities. The bill makes the
16 entire Code chapter applicable to holders of land (including
17 tenants and others in control), not just landowners.

18 The bill relates to the recent decision rendered by the Iowa
19 Supreme Court in *Sallee v. Stewart*, (No. 11-0892) (Iowa 2013).
20 The bill modifies the definitions of "land", "recreational
21 purpose", and "urban deer control" and includes immunity from
22 liability for land holders with respect to specified ancillary
23 activities or persons.

24 The bill broadens the definition of the land and water areas
25 included in such limitations of liability and provides that
26 such land does not have to be open to the general public to
27 be subject to the protections of Code chapter 461C. The bill
28 defines "land" to include private land within a municipality
29 used for urban deer control.

30 The bill also broadens the definition of the activities
31 that constitute a "recreational purpose" by providing that
32 "recreational purpose" includes but is not limited to any
33 activity undertaken for recreation, sport, exercise, education,
34 relaxation, pleasure, or any combination thereof. In addition,
35 the bill provides that "recreational purpose" includes a

1 person's activity in accompanying another person who is engaged
2 in a recreational purpose. "Recreational purpose" and "urban
3 deer control" are not limited to active engagement in such
4 activities, but also include entry onto, use of, passage over,
5 and presence on any part of the land in connection with or
6 during the course of such activities.

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