

Senate File 413 - Introduced

SENATE FILE 413
BY COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT

(SUCCESSOR TO SSB 1232)

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). In that case the Supreme Court hold that Code
32 chapter 461C did not limit the liability of a farmer when a
33 chaperone was injured on a school field trip to the farm.

34 The bill broadens the definition of what land and water areas
35 are included in such limitations of liability and provides that

1 such land does not have to be open to the general public to be
2 subject to the protections of Code chapter 461C.

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

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