



# Iowa General Assembly

## 2004 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### **SNOWMOBILING ACTIVITIES ON PUBLIC LANDS - STATE LIABILITY**

Filed by the Iowa Supreme Court  
June 16, 2004

Davis v. State and Department of Natural Resources, No. 56-03-0366

<http://www.judicial.state.ia.us/supreme/opinions/20040616/03-0366.asp?printable=True>

**Factual and Procedural Background:** On the evening of December 30, 1998, Allan Ray Davis and several friends were snowmobiling on trails in and around Lacey-Keosauqua State Park, a public park, and Shimek Forest, near Keosauqua. Both the park and the forest are owned by the State and operated by the Department of Natural Resources (DNR). The route taken by Davis and his friends led them to a trail on the south side of the park, the entrance of which was obstructed by a chain barrier. Davis and his friends entered the trail through a small opening between the chain post and a large tree, and the group later returned to the same trailhead from the opposite direction. Davis failed to negotiate the chain post area where he had entered the trail and sustained fatal head and neck injuries when he struck the chain. Testimony at trial established that the DNR had maintained the trail and that the chain which caused the accident had been placed across the trailhead sometime before 1972 to prohibit motor vehicle access. Every winter, the DNR would routinely take down the chain and put up a snowmobile gate which allowed snowmobiles, but not larger vehicles, to gain access to the trail. At some point prior to the winter of 1997-98, the DNR stopped maintaining the trail and left the chain in place year-round, although the trails continued to remain open to snowmobilers. Davis's personal representative, Tina Davis, alleged that Davis's death was caused by the negligence of the State and the DNR in failing to properly maintain the trail. The district court granted summary judgment in favor of the State and the DNR.

**Issue:** Whether Iowa Code section 321G.22 absolves the State of any liability for injury or death arising out of snowmobiling activities on public land.

**Analysis:** Iowa Code section 321G.22 reads as follows:

321G.22 Limitation of liability by public bodies and adjoining owners.

The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right of way of a public highway and their agents and employees owe no duty of care to keep the public lands, ditches, or land contiguous to a highway or roadway under the control of the state or a political subdivision safe for entry or use by persons operating an all-terrain vehicle or snowmobile, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for such purposes, except in the case of willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right of way of a public highway, and their agents and employees are not liable for actions taken to allow or facilitate the use of public lands, ditches, or land contiguous to a highway or roadway except in the case of a willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

This section does not create a duty of care or ground of liability on behalf of the state, its political subdivisions, or the owners or tenants of property adjoining public lands or the right of way of a public highway and their agents and employees for injury to persons or property in the operation of all-terrain vehicles or snowmobiles in a ditch or on land contiguous to a highway or roadway under the control of the state or a political subdivision. The state, its political subdivisions, and the owners or tenants of property adjoining public lands or the right of way of a public

highway and their agents and employees are not liable for the operation of an all-terrain vehicle or snowmobile in violation of this chapter (emphasis added).

The specific issue in this case involves the question of statutory interpretation and specifically, to what types of land the negation of duty and legal liability contained in section 321G.22 apply (see emphasized language). In this case, Davis's personal representative contended that the words "contiguous to a highway or roadway" modify all of the preceding words in the series "public lands, ditches, or land." The State argued that because the words "contiguous to a highway or roadway" are separated from the preceding series of words by a comma and the word "or," and is not followed by a comma, the modifying language only refers to the last preceding antecedent, a rule of statutory interpretation applied by the courts in prior cases. In resolving this dispute, the Supreme Court did not rely on a literal or grammatical interpretation of the statute in determining legislative intent. The Court instead considered the statute as it existed both before and after a 1989 amendment that added the pertinent words "public lands."

**Conclusion.** In affirming the summary judgment action of the District Court, the Supreme Court concluded that the words "land contiguous to a highway or roadway" as it existed prior to the 1989 amendment included both private and public lands contiguous to a highway or road, and therefore, the State enjoyed a negation of duty and a negation of legal liability for snowmobile activities on public lands contiguous to a highway or roadway under the law as it previously existed. Consequently, the addition in 1989 of the words "public lands" to the statute extended the negation of duty and the negation of legal liability to all public lands wherever situated.

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