

House Bill 2295

Sponsored by Representatives MANNIX, OWENS; Representative SCHARF (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act amends laws shielding land owners from lawsuits by outdoor visitors. (Flesch Readability Score: 60.7).

Amends landowner immunity provisions to focus on the activities and outdoor location of injured users and not the users' intended purposes.

A BILL FOR AN ACT

1
2 Relating to landowner immunity; amending ORS 30.772, 105.672, 105.676, 105.682, 105.688, 105.692 and
3 105.696; and repealing ORS 105.668 and section 11, chapter 64, Oregon Laws 2024.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 105.672, as amended by sections 6 and 9, chapter 64, Oregon Laws 2024, is
6 amended to read:

7 105.672. As used in ORS 105.672 to 105.696:

8 [(1) "Charge":]

9 [(a) Means the admission price or fee requested or expected by an owner in return for granting
10 permission for a person to enter or go upon the owner's land.]

11 [(b) Does not mean any amount received from a public body in return for granting permission for
12 the public to enter or go upon the owner's land.]

13 [(c) Does not include the fee for a winter recreation parking permit or any other parking fee of \$15
14 or less per day.]

15 [(2)] (1) "Harvest" has that meaning given in ORS 164.813.

16 [(3)] (2)(a) "Land" [includes] **means** all real property, whether publicly or privately
17 owned, [including:

18 (A) **Bodies of water and land adjacent or contiguous to any bodies of water, watercourses**
19 **or the ocean shore as defined in ORS 390.605;**

20 (B) **Paths or trails, including stairs and bridges that are ordinarily accessible on foot, on**
21 **a horse or on a bicycle;**

22 (C) **Private roads; or**

23 (D) **Any machinery or equipment on the land.**

24 (b) "Land" does not include:

25 (A) **Any building, structure, fixture or indoor area;**

26 (B) **Land within the right of way of a highway, as defined in ORS 801.305; or**

27 (C) **A paved or otherwise improved parking lot or improved sidewalk or walkway sup-**
28 **porting a structure.**

29 [(4)] (3) "Land owner" or "owner" means:

30 (a) The [possessor] **holder** of any interest in any land, including but not limited to the holder

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in **boldfaced** type.

1 of any legal or equitable title, a tenant, a lessee, an occupant, the holder of an easement, the holder
 2 of a right of way or a person in possession of the land;

3 (b) An officer, employee, volunteer or agent of a person described in paragraph (a) of this sub-
 4 section, while acting within the scope of assigned duties; and

5 (c) A director, partner, general partner, shareholder, limited liability company member, limited
 6 liability partner or limited partner of a person described in paragraph (a) of this subsection.

7 **(4) “Land user” or “user” means a person who enters, uses or is present on the land of**
 8 **another, with or without invitation, permission or authorization, except for a person who is**
 9 **acting within their capacity as an employee or agent of the land owner.**

10 (5) “Recreational [*purposes*] **activities**” includes, but is not limited to, outdoor activities such
 11 as hunting, fishing, swimming, boating, camping, picnicking, hiking, **walking, running, bicycling,**
 12 nature study, outdoor educational activities, waterskiing, winter sports, viewing or enjoying histor-
 13 ical, archaeological, scenic or scientific sites or volunteering for any public purpose project.

14 (6) “Special forest products” has that meaning given in ORS 164.813.

15 (7) “Woodcutting” means the cutting or removal of wood from land by an individual who has
 16 obtained permission from the owner of the land to cut or remove wood.

17 **SECTION 2.** ORS 105.682 is amended to read:

18 105.682. *[(1) Except as provided by subsection (2) of this section, and subject to the provisions of*
 19 *ORS 105.688, an owner of land is not liable in contract or tort for any personal injury, death or*
 20 *property damage that arises out of the use of the land for recreational purposes, gardening, woodcutting*
 21 *or the harvest of special forest products when the owner of land either directly or indirectly permits*
 22 *any person to use the land for recreational purposes, gardening, woodcutting or the harvest of special*
 23 *forest products. The limitation on liability provided by this section applies if the principal purpose for*
 24 *entry upon the land is for recreational purposes, gardening, woodcutting or the harvest of special forest*
 25 *products, and is not affected if the injury, death or damage occurs while the person entering land is*
 26 *engaging in activities other than the use of the land for recreational purposes, gardening, woodcutting*
 27 *or the harvest of special forest products.]*

28 *[(2) This section does not limit the liability of an owner of land for intentional injury or damage*
 29 *to a person coming onto land for recreational purposes, gardening, woodcutting or the harvest of spe-*
 30 *cial forest products.]*

31 **Except as provided in ORS 105.688, an owner is not liable for any personal injury, death**
 32 **or property damage that is caused by or arises out of:**

33 **(1) A land user’s use of the land for recreational activities, gardening, woodcutting or the**
 34 **harvest of special forest products; and**

35 **(2) An owner’s improvements on, care for or maintenance of the land, including actions**
 36 **or omissions of the owner that are negligent, grossly negligent or reckless, provided that the**
 37 **owner did not intend to cause the harm.**

38 **SECTION 3.** ORS 105.688, as amended by sections 7 and 10, chapter 64, Oregon Laws 2024, is
 39 amended to read:

40 105.688. *[(1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided*
 41 *by ORS 105.682 apply to:]*

42 *[(a) All land, including but not limited to land adjacent or contiguous to any bodies of water,*
 43 *watercourses or the ocean shore as defined by ORS 390.605;]*

44 *[(b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on*
 45 *the land described in paragraph (a) of this subsection;]*

1 *[(c) All paths, trails, roads, watercourses and other rights of way, while being used by a person*
 2 *to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest pro-*
 3 *ducts, that are on land adjacent to the land that the person intends to use for recreational purposes,*
 4 *gardening, woodcutting or the harvest of special forest products, provided that the right of way has*
 5 *not been improved, designed or maintained for the specific purpose of providing access for recreational*
 6 *purposes, gardening, woodcutting or the harvest of special forest products; and]*

7 *[(d) All machinery or equipment on the land described in paragraph (a) of this subsection.]*

8 *[(2) The immunities provided by ORS 105.682 apply to land if the owner transfers an easement to*
 9 *a public body to use the land.]*

10 *[(3) Except as provided in subsections (4) to (7) of this section,]* The immunities provided by ORS
 11 105.682 do not apply if the owner makes any charge *[for permission to use the land for recreational*
 12 *purposes, gardening, woodcutting or the harvest of special forest products.]* **to the land user in ex-**
 13 **change for the permission to enter upon or to use the land, unless the charge:**

14 *[(4) If the owner charges for permission to use the owner's land for one or more specific recre-*
 15 *ational purposes and the owner provides notice in the manner provided by subsection (8) of this section,*
 16 *the immunities provided by ORS 105.682 apply to any use of the land other than the activities for which*
 17 *the charge is imposed. If the owner charges for permission to use a specified part of the owner's land*
 18 *for recreational purposes and the owner provides notice in the manner provided by subsection (8) of*
 19 *this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.]*

20 *[(5)] (1) [The immunities provided by ORS 105.682 for gardening do not apply if the owner charges*
 21 *more] Is less than \$25 per year [for the use of] to use the land for gardening[. If the owner charges*
 22 *more than \$25 per year for the use of the land for gardening, the immunities provided by ORS 105.682*
 23 *apply to any use of the land other than gardening. If the owner charges more than \$25 per year for*
 24 *permission to use a specific part of the owner's land for gardening and the owner provides notice in*
 25 *the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply*
 26 *to the remainder of the owner's land.];*

27 *[(6)] (2) [The immunities provided by ORS 105.682 for woodcutting do not apply if the owner*
 28 *charges more] Is less than \$75 per cord [for permission] to use the land for woodcutting[. If the*
 29 *owner charges more than \$75 per cord for the use of the land for woodcutting, the immunities provided*
 30 *by ORS 105.682 apply to any use of the land other than woodcutting. If the owner charges more than*
 31 *\$75 per cord for permission to use a specific part of the owner's land for woodcutting and the owner*
 32 *provides notice in the manner provided by subsection (8) of this section, the immunities provided by*
 33 *ORS 105.682 apply to the remainder of the owner's land.];*

34 *[(7) The immunities provided by ORS 105.682 for the harvest of special forest products do not apply*
 35 *if the owner makes any charge for permission to use the land for the harvest of special forest products.*
 36 *If the owner charges for permission to use the owner's land for the harvest of special forest products,*
 37 *the immunities provided by ORS 105.682 apply to any use of the land other than the harvest of special*
 38 *forest products. If the owner charges for permission to use a specific part of the owner's land for har-*
 39 *vesting special forest products and the owner provides notice in the manner provided by subsection (8)*
 40 *of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.]*

41 **(3) Is less than \$15 per day and is charged only to use the land for parking; or**

42 **(4) Is only to use the land for those limited uses that are permitted or reasonably fore-**
 43 **seeable by the land owner or to use only specified portions of the land. In cases described in**
 44 **this subsection, the immunities provided by ORS 105.682 apply:**

45 **(a) Only to the land user's forbidden and unexpected uses of the land or entry upon or**

1 **uses of the unpermitted portions of the land; and**

2 [(8)] (b) [Notices under subsections (4) to (7) of this section may be given] **Only if the land owner**
 3 **has given notice to the land user** by posting, as part of a receipt, or by such other means as may
 4 be reasonably calculated to apprise a person of:

5 [(a)] (A) The limited uses of the land for which the charge is made[,] and the immunities pro-
 6 vided under ORS 105.682 for other uses of the land; or

7 [(b)] (B) The portion of the land the use of which is subject to the charge[,] and the immunities
 8 provided under ORS 105.682 for the remainder of the land.

9 **SECTION 4.** ORS 105.692 is amended to read:

10 105.692. (1) An owner of land who either directly or indirectly **tolerates or** permits any person
 11 to use the land for recreational [*purposes*] **activities**, gardening, woodcutting or the harvest of spe-
 12 cial forest products does not give that person or any other person a right to continued use of the
 13 land for those [*purposes*] **uses** without the consent of the owner.

14 (2) [*The fact that*] An owner of land [*allows*] **who tolerates or permits** the public to use the
 15 land for recreational [*purposes*] **activities**, gardening, woodcutting or the harvest of special forest
 16 products without posting, fencing or otherwise restricting use of the land [*does not raise a*
 17 *presumption that the landowner*] **is not presumed to have** intended to dedicate or otherwise give
 18 over to the public the right to continued use of the land.

19 (3) [*Nothing in this section shall be construed to*] **This section does not** diminish or divert any
 20 public right to use land for recreational [*purposes*] **activities** acquired by dedication, prescription,
 21 grant, custom or otherwise existing before October 5, 1973.

22 (4) [*Nothing in this section shall be construed to*] **This section does not** diminish or divert any
 23 public right to use land for woodcutting acquired by dedication, prescription, grant, custom or oth-
 24 erwise existing before October 3, 1979.

25 **SECTION 5.** ORS 105.696 is amended to read:

26 105.696. ORS 105.672 to 105.696 do not:

27 (1) Create a duty of care or basis for liability for personal injury, death or property damage
 28 resulting from the use of land for recreational [*purposes, for gardening, for woodcutting or for*] **ac-**
 29 **tivities, gardening, woodcutting or** the harvest of special forest products.

30 (2) Relieve a [*person using the land of another for recreational purposes, gardening, woodcutting*
 31 *or the harvest of special forest products*] **land user** from any obligation that the [*person*] **land user**
 32 has to exercise care in use of the land in the activities of the [*person*] **land user** or from the legal
 33 consequences of failure of the [*person*] **land user** to exercise that care.

34 **SECTION 6.** ORS 105.668 and section 11, chapter 64, Oregon Laws 2024, are repealed.

35 **SECTION 7.** ORS 30.772 is amended to read:

36 30.772. (1) As used in this section:

37 (a) “Airstrip” means land that contains a runway or heliport operated and maintained for the
 38 takeoff and landing of motorized aircraft and that is registered with the Oregon Department of
 39 Aviation or the Federal Aviation Administration at the time of the flight at issue.

40 (b) “Aviation activity” includes but is not limited to hang gliding, parachuting, paragliding and
 41 operating airplanes or ultralight aircraft.

42 (c)(A) “Charge” [*has the meaning given that term in ORS 105.672*] **means the admission price**
 43 **or fee requested or expected by an owner in return for granting permission for a person to**
 44 **enter or go upon the owner’s land.**

45 (B) “Charge” **does not include a parking fee of \$15 or less per day or an amount received**

1 **by a public body in return for granting permission for the public to use the owner's land.**

2 (d) "Land" has the meaning given that term in ORS 105.672.

3 (e) "Nonpublic airstrip" means an airstrip that is registered as a private use airport with the
4 Oregon Department of Aviation or the Federal Aviation Administration at the time of the flight at
5 issue.

6 (f) "Owner" has the meaning given that term in ORS 105.672.

7 (g) "Public airstrip" means an airstrip that is not a nonpublic airstrip.

8 (2) An owner of land is not liable for any personal injury, death or property damage arising from
9 the use of land for purposes of aviation activity, unless the owner intentionally causes the injury,
10 death or property damage.

11 (3) Subsection (2) of this section does not apply to any of the following:

12 (a) An owner of a public airstrip.

13 (b) An owner of a nonpublic airstrip if:

14 (A) The owner is contacted by the operator of a motorized aircraft prior to the beginning of the
15 aircraft's flight;

16 (B) The owner provides permission to the operator to use the owner's land for activities related
17 to the aircraft's flight; and

18 (C) Gross negligence of the owner causes injury, death or property damage related to the
19 aircraft's flight.

20 (c) An owner of land who imposes a charge for the use of the land for aviation purposes.

21 **SECTION 8.** ORS 105.676 is amended to read:

22 105.676. The Legislative Assembly hereby declares it is the public policy of the State of Oregon
23 to encourage owners of land to make their land available to the public for recreational [*purposes*]
24 **activities**, for gardening, for woodcutting and for the harvest of special forest products by limiting
25 their liability toward persons entering thereon for such purposes and by protecting their interests
26 in their land from the extinguishment of any such interest or the acquisition by the public of any
27 right to use or continue the use of such land for recreational [*purposes*] **activities**, gardening,
28 woodcutting or the harvest of special forest products.

29