

Enrolled
House Bill 2003

Sponsored by Representative STIEGLER

CHAPTER

AN ACT

Relating to use of land; creating new provisions; and amending ORS 105.672, 105.676, 105.682, 105.688, 105.692 and 105.696.

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

SECTION 1. ORS 105.672 is amended to read:

105.672. As used in ORS 105.672 to 105.696:

(1) "Charge":

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

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

(2) "Harvest" has that meaning given in ORS 164.813.

(3) "Land" includes all real property, whether publicly or privately owned.

(4) "Owner" means the possessor of any interest in any land, *[including but not limited to possession of a fee title. "Owner" includes]* **such as the holder of a fee title, a tenant, a lessee, an occupant, the holder of an easement, the holder of a right of way** or *[other]* a person in possession of the land.

(5) "Recreational purposes" includes, but is not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, waterskiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project.

(6) "Special forest products" has that meaning given in ORS 164.813.

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

SECTION 2. ORS 105.688 is amended to read:

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

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

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

(c) **All paths, trails, roads, watercourses and other rights of way while being used by a person to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest products, that are on land adjacent to the land that the person intends to use for recreational purposes, gardening, woodcutting or the harvest of special forest products,**

and that have not been improved, designed or maintained for the specific purpose of providing access for recreational purposes, gardening, woodcutting or the harvest of special forest products; and

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

[(2) The immunities provided by ORS 105.682 apply only if:]

[(a) The owner makes no charge for permission to use the land;]

[(b) The owner transfers an easement to a public body to use the land; or]

[(c) The owner charges no more than \$75 per cord for permission to use the land for woodcutting.]

(2) The immunities provided by ORS 105.682 for recreational purposes and for the harvest of special forest products apply only if:

(a) The owner transfers an easement to a public body to use the land; or

(b) The owner makes no charge for permission to use the land.

(3) The immunities provided by ORS 105.682 for gardening apply only if the owner charges no more than \$25 per year for the use of the land for gardening.

(4) The immunities provided by ORS 105.682 for woodcutting apply only if the owner charges no more than \$75 per cord for permission to use the land for woodcutting.

SECTION 3. ORS 105.676 is amended to read:

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

SECTION 4. ORS 105.682 is amended to read:

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

(2) This section does not limit the liability of an owner of land for intentional injury or damage to a person coming onto land for recreational purposes, **gardening**, woodcutting or the harvest of special forest products.

SECTION 5. ORS 105.692 is amended to read:

105.692. (1) An owner of land who either directly or indirectly permits any person to use the land for recreational purposes, **gardening**, woodcutting or the harvest of special forest products does not give that person or any other person a right to continued use of the land for those purposes without the consent of the owner.

(2) The fact that an owner of land allows the public to use the land for recreational purposes, **gardening**, woodcutting or the harvest of special forest products without posting, fencing or otherwise restricting use of the land does not raise a presumption that the landowner intended to dedicate or otherwise give over to the public the right to continued use of the land.

(3) Nothing in this section shall be construed to diminish or divert any public right to use land for recreational purposes acquired by dedication, prescription, grant, custom or otherwise existing before October 5, 1973.

(4) Nothing in this section shall be construed to diminish or divert any public right to use land for woodcutting acquired by dedication, prescription, grant, custom or otherwise existing before October 3, 1979.

SECTION 6. ORS 105.696 is amended to read:

105.696. ORS 105.672 to 105.696 do not:

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

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

SECTION 7. The amendments to ORS 105.676, 105.682, 105.688, 105.692 and 105.696 by sections 2 to 6 of this 2009 Act apply only to causes of action that arise on or after the effective date of this 2009 Act.

Passed by House June 3, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 12, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State