



2013 SENATE BILL 321

October 2, 2013 – Introduced by Senators LEIBHAM, GROTHMAN, GUDEx, HANSEN, HARS DORF and LASSA, cosponsored by Representatives TITTL, BIES, BROOKS, KAUFERT, KESTELL, KNODL, T. LARSON, MURPHY, MURTHA, RIPP, SMITH and THIESFELDT. Referred to Committee on Judiciary and Labor.

1 **AN ACT to amend** 895.52 (1) (g) and 895.525 (2) of the statutes; **relating to:**
2 limitation of a property owner’s liability when lands are used for
3 noncommercial aviation.

Analysis by the Legislative Reference Bureau

Under current law, a private property owner is not generally liable for injuries sustained by a person engaging in recreational activities on the property. Under current law, a private property owner generally owes no duty to keep the property safe for recreational activities or to give recreational users a warning of an unsafe condition on the property. In order to avoid liability for injuries sustained by a person engaging in a recreational activity, the private property owner may not accept payment of more than \$2,000 in one year for allowing persons to engage in recreational activities on the property, and he or she may not maliciously act or fail to act in a manner that causes the injury.

Under current law, a person who engages in a recreational activity generally assumes the risks inherent in participating in that activity and has a duty to take certain measures to ensure his or her own safety while engaging in the activity. If a person is injured while participating in a recreational activity, he or she may be held partially or wholly liable for his or her injuries, depending on the nature of the activity and the measures the person took or failed to take to ensure his or her safety.

This bill adds noncommercial aviation as a recreational use for which a private property owner owes no duty to keep his or her property safe or to give recreational users a warning of an unsafe condition on his or her property. Under the bill, a person

SENATE BILL 321

who engages in noncommercial aviation is engaged in a recreational activity and assumes the risks inherent in the activity and is responsible for taking measures to ensure his or her own safety.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.52 (1) (g) of the statutes, as affected by 2013 Wisconsin Act 20,
2 is amended to read:

3 895.52 (1) (g) “Recreational activity” means any outdoor activity undertaken
4 for the purpose of exercise, relaxation or pleasure, including practice or instruction
5 in any such activity. “Recreational activity” includes hunting, fishing, trapping,
6 camping, picnicking, exploring caves, nature study, bicycling, horseback riding,
7 bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain
8 vehicle, operating a vehicle, as defined in s. 340.01 (74), on a road designated under
9 s. 23.115, noncommercial aviation, ballooning, hang gliding, hiking, tobogganing,
10 sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing,
11 rock-climbing, cutting or removing wood, climbing observation towers, animal
12 training, harvesting the products of nature, sport shooting and any other outdoor
13 sport, game or educational activity. “Recreational activity” does not include any
14 organized team sport activity sponsored by the owner of the property on which the
15 activity takes place.

16 **SECTION 2.** 895.525 (2) of the statutes is amended to read:

17 895.525 (2) **DEFINITION.** In this section, “recreational activity” means any
18 activity undertaken for the purpose of exercise, relaxation or pleasure, including
19 practice or instruction in any such activity. “Recreational activity” does not include
20 participating in a snow sport at a ski area, as those terms are defined in s. 167.33,

SENATE BILL 321

1 but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking,
2 exploring caves, nature study, dancing, bicycling, horseback riding,
3 horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle
4 or utility terrain vehicle, noncommercial aviation, ballooning, curling, throwing
5 darts, hang gliding, hiking, sleigh riding, snowmobiling, skating, participation in
6 water sports, weight and fitness training, sight-seeing, rock-climbing, cutting or
7 removing wood, climbing observation towers, animal training, harvesting the
8 products of nature, sport shooting, and participating in a snow sport outside a ski
9 area, as those terms are defined in s. 167.33, and any other sport, game or
10 educational activity.

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(END)