

## 2013 DRAFTING REQUEST

### Bill

Received: 5/9/2013 Received By: phurley  
Wanted: As time permits Same as LRB: -3053  
For: Joseph Leibham (608) 266-2056 By/Representing: Alex Hanson  
May Contact: Drafter: phurley  
Subject: Courts - immunity liability Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Sen.Leibham@legis.wisconsin.gov  
Carbon copy (CC) to:

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### Pre Topic:

No specific pre topic given

---

### Topic:

Civil immunity for recreational aviation

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 5/9/2013	jdyer 5/9/2013	jfrantze 5/9/2013	_____			
/P1	phurley 8/2/2013	jdyer 8/12/2013	jmurphy 8/13/2013	_____	sbasford 5/9/2013		
/P2	phurley 9/3/2013	jdyer 9/9/2013	phenry 9/10/2013	_____	lparisi 8/13/2013		
/1				_____	mbarman	sbasford	

Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

9/10/2013

9/10/2013

FE Sent For:

Not  
needed

<END>

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/P1	phurley 8/2/2013	jdyer 8/12/2013	jmurphy 8/13/2013	_____	sbasford 5/9/2013		
/P2		<i>19/9 jld</i>	<i>21/10 ph</i>	_____	lparisi 8/13/2013		

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/P1		<i>P2 8/12 jcd</i>	<i>jm 8/12</i>	<i>jm 5/13</i>	sbasford 5/9/2013		

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/?	phurley	PI 5/9 jld	Jb	5/9			

FE Sent For:

<END>

## Hurley, Peggy

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**From:** Hansen, Alex  
**Sent:** Thursday, May 09, 2013 9:34 AM  
**To:** Malaise, Gordon  
**Cc:** Hurley, Peggy  
**Subject:** RE: Drafting Request-Recreational Use Statutes

Thank you,.

---

**From:** Malaise, Gordon  
**Sent:** Thursday, May 09, 2013 9:32 AM  
**To:** Hansen, Alex  
**Cc:** Hurley, Peggy  
**Subject:** FW: Drafting Request-Recreational Use Statutes

Alex:

Peggy will draft it for you.

Gordon

---

**From:** Hurley, Peggy  
**Sent:** Thursday, May 09, 2013 9:31 AM  
**To:** Malaise, Gordon; Kuczenski, Tracy  
**Subject:** RE: Drafting Request-Recreational Use Statutes

I can take this one; I've done similar drafts before.

---

**From:** Malaise, Gordon  
**Sent:** Thursday, May 09, 2013 9:31 AM  
**To:** Kuczenski, Tracy; Hurley, Peggy  
**Subject:** FW: Drafting Request-Recreational Use Statutes

This one looks like a job for TKK/PJH.

---

**From:** Hansen, Alex  
**Sent:** Thursday, May 09, 2013 9:04 AM  
**To:** Malaise, Gordon  
**Subject:** Drafting Request-Recreational Use Statutes

Gordon,

I am not sure which attorney to direct this to at LRB, so please advise if I should send this to someone else.

On behalf of Senator Leibham, I would like to request a bill draft that would amend 895.52 (1)g to include non-commercial aviation.

Please draft this in preliminary form. Thank you.

**Alex Hansen**  
*Office of Senator Joe Leibham*  
Phone: (608) 266-2056

Room 15 South, State Capitol

[www.leibhamsenate.com](http://www.leibhamsenate.com)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0004A  
PJH:jld:jf

DN

**2013 BILL**

Keep ↗

2345/P1

5-9-13

mmr

✓

Regen

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

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.

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

3 SECTION 1. 895.52 (1) (g) of the statutes is amended to read:

**BILL**

**SECTION 1**

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

13

(END)

d-note  
↓

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

2345/PI dn  
LRB-0004/1dn  
PJH:jld:jf

October 24, 2012 } new date

↑  
Keep

John Alex  
Please review this draft to ensure that it is consistent with your intent. <sup>plain referred</sup> As I mentioned in the e-mail I sent to your office, it is unclear to me whether an airstrip or other site designated by the FAA as "approved for emergency landing" requires some level of maintenance or other duty of care. It is my understanding that your constituent may have more information on this point; please let me know if you think this draft needs to be changed after you confer with your constituent.

Ⓢ Please also note that this draft adds "noncommercial aviation" to the list of recreational activities for which a private property owner owes no duty of care, but it does not add "noncommercial aviation" to the "assumption of risk" statute, s. 895.525, Wis. Stats. Please review and let me know if that does not reflect your intent.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

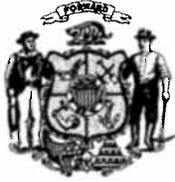
LRB-2345/P1dn  
PJH:jld:jf

May 9, 2013

Alex,

Please review this draft to ensure that it is consistent with your intent. Please note that this draft adds “noncommercial aviation” to the list of recreational activities for which a private property owner owes no duty of care, but it does not add “noncommercial aviation” to the “assumption of risk” statute, s. 895.525, Wis. Stats. Please review and let me know if that does not reflect your intent.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2345/P1

PJH:jld:jf

P2  
mr

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

8-2-13

W Regen

1 AN ACT to amend 895.52 (1) (g) of the statutes; relating to: limitation of a  
2 property owner's liability when lands are used for 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. ~~§ NO 4~~

~~NO 4~~ 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.

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.

Insert analysis

P Insert analysis

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

3

SECTION 1. 895.52 (1) (g) of the statutes is amended to read:

as affected by 2013 Wisconsin Act 20,

operating a vehicle, as defined in s. 340.01 (74), on a road designated under s. 23.115,

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13

895.52 (1) (g) "Recreational activity" means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, noncommercial aviation, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting and any other outdoor sport, game or educational activity. "Recreational activity" does not include any organized team sport activity sponsored by the owner of the property on which the activity takes place.

(END)

Insert 2-12 ✓

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2345/P1ins  
PJH:jld:jf

INSERT ANALYSIS 1:

④ Under current law, a person who engages in <sup>a</sup> recreational activity generally <sup>\*</sup> 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. ✓

INSERT ANALYSIS 2:

④ Under the bill, a person who engages in <sup>✓</sup> 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. ✓

INSERT 2-12 ✓

SECTION 1. 895.525 (2) of the statutes is amended to read:

895.525 (2) DEFINITION. In this section, "recreational activity" means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" does not include participating in a snow sport at a ski area, as those terms are defined in s. 167.33, but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling, horseback riding, horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, noncommercial aviation, <sup>✓</sup> ballooning, curling, throwing darts, hang gliding, hiking, sleigh riding, snowmobiling, skating, participation in water sports, weight and fitness training, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting, and participating in a snow sport outside a ski



area, as those terms are defined in s. 167.33, and any other sport, game or educational activity.

~~NOTE: NOTE: Sub. (2) is shown below as affected by 2011 Wis. Acts 199 and 208 and as merged by the legislative reference bureau under s. 13.92 (2) (i).NOTE:  
History: 1987 a. 377; 1995 a. 223, 447; 1997 a. 242; 2005 a. 155; 2011 a. 162, 199, 208; s. 13.92 (2) (i).~~

## Hurley, Peggy

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**From:** Petrovich, Luke  
**Sent:** Thursday, August 29, 2013 4:53 PM  
**To:** Hurley, Peggy  
**Subject:** LRB -2345/P2 Topic: Civil immunity for recreational aviation

Hello Peggy,

I know you are on vacation but I would like to request an introducible form for this bill, LRB 2345/P2. We are good with the current version, no edits. We have given Representative Tittl permission to draft a companion bill. You should be hearing from them soon as well.

Let me know if you have any questions or concerns.

Thanks,

**Luke Petrovich**  
Office of Senator Joe Leibham  
9th Senate District  
(608) 266-2056



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2345/P2

PJH:jld:jm

2013 BILL

keep

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

9-3-13  
no changes  
from PA  
to 11

✓ Regen

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 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.

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***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,  
21 but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking,

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

10

(END)

**Basford, Sarah**

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**From:** Petrovich, Luke  
**Sent:** Tuesday, September 10, 2013 10:32 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2345/1 Topic: Civil immunity for recreational aviation

Please Jacket LRB -2345/1 for the SENATE.