

2001 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB174)

Received: 04/13/2001

Received By: nelsorp1

Wanted: 04/16/2001

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Mark Patronsky

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters:

Subject: Courts - immunity liability

Extra Copies: Mark Patronsky Leg. Co.

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Liability of campground owners

Instructions:

See Attached

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>
/?	nelsorp1 04/13/2001	jdye 04/16/2001					
/1			jfrantze 04/16/2001		lrb_docadmin 04/16/2001	lrb_docadmin 04/16/2001	

FE Sent For:

2001 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB174)

Received: **04/13/2001**

Received By: **nelsorp1**

Wanted: **04/16/2001**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Mark Patronskey**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Addl. Drafters:

Subject: **Courts - immunity liability**

Extra Copies: **Mark Patronskey Leg. Co.**

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Liability of campground owners

Instructions:

See Attached

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>				
1?	nelsorp1	1 ⁴ / ₁₆ jcd	7/6/16	<table border="1"> <tr><td>76</td><td>001</td></tr> <tr><td>4</td><td>16</td></tr> </table>	76	001	4	16			
76	001										
4	16										

FE Sent For:

<END>

WISCONSIN LEGISLATIVE COUNCIL STAFF
One East Main Street, Suite 401
P.O. Box 2536
Madison, WI 53701-2536

FAX # 608/266-3830

DATE: 4/13/01

NUMBER OF PAGES SENT, INCLUDING COVER PAGE: 2
[If pages are not all received or are illegible, please call 608/266-1304.]

PLEASE DELIVER TO: Bob Nelson

FAX NUMBER:

FROM: Mark Patronsky

MESSAGE:

PLEASE DRAFT AS SUB.
AMDT. FOR REP. PETTIS —
THANKS!
LM.

Campground Liability

WLC: 0141/1

MCP:jal;tlu

04/13/2001

**ASSEMBLY AMENDMENT ,
TO 2001 ASSEMBLY BILL 174**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 4: delete the material beginning with "that" on that line and ending with
3 "operator" on line 6 and substitute: "the negligence of a person other than the owner or
4 operator of the campground and the employees and agents of the owner or operator was a cause
5 of the damage, death or injury and all of the following apply:

6 (a) The cause of the damage, death, or injury occurs on the private campground
7 property.

8 (b) Any negligence of the owner or operator or the employees or agents of the owner
9 or operator that was the cause of the damage, death, or injury is an act of omission.

10 (c) The owner or operator or the employees or agents of the owner or operator are not
11 joint tortfeasors with any person other than the owner or operator or the employees or agents
12 of the owner or operator with respect to the damage, death, or injury.

13 (d) The damage, death, or injury is not caused by either of the following:

14 1. An intentional or malicious act of the owner or operator or the employees or agents
15 of the owner or operator.

16 2. The malicious failure of the owner or operator or the employees or agents of the
17 owner or operator to warn against an unsafe condition on the campground property, of which
18 the owner or operator knew".

19

(END)

Mark Patronsky 4/13

Gab Pettis

to AB 174

by Monday PM

DN - acts of omission

Wanted 4/16/3pm

CORRECTED COPY

2001-2002 LEGISLATURE

LRB-24547

D-NOTE

RPN:jld:rs

stays

Assembly Substitute Amendment

2001 ASSEMBLY BILL 174

March 6, 2001 - Introduced by Representatives PETTIS, D. MEYER, KRAWCZYK, HAHN, ALBERS, OWENS, TOWNSEND, FRISKE, SUDER, AINSWORTH, WADE, WARD, SYKORA, VRAKAS, FREESE, GUNDERSON, PLOUFF, DUFF and MUSSEY, cosponsored by Senators BRESKE, ZIEN, HUELSMAN, COWLES and A. LASEE. Referred to Committee on Tourism and Recreation.

Regen

1 AN ACT ~~to create~~ 895.523 of the statutes; relating to: immunity of private
2 campground owners, ~~and~~ operators, ~~and~~ employees, and agents

Analysis by the Legislative Reference Bureau

This bill provides immunity from civil liability to owners and operators of private campgrounds and to their employees and agents. The immunity applies to property damage or personal injury or death of an individual if the damage, injury, or death is the proximate result of the act or omission of a person other than the owner or operator of the private campground or the employees or agents of the owner or operator.

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

3 SECTION 1. 895.523^x of the statutes is created to read:
4 895.523 Liability exemption; private campgrounds. (1) In this section:
5 (a) "Private campground" means a facility that is issued a campground permit
6 under s. 254.47 and that is owned and operated by someone other than a public
7 agency.

ASSEMBLY BILL 174

SECTION 1

1 (b) "Public agency" has the meaning given in s. 66.0825 (3) (h).

2 (2) The owner or operator of a private campground and the employees and
3 agents of the owner or operator are immune from civil liability for damage to property
4 or for the death of or injury to an individual if that damage, death, or injury is a
5 proximate result of the acts or omissions of a person other than the owner or operator
6 of the campground or the employees and agents of the owner or operator.

7 SECTION 2. Initial applicability.

8 (1) This act first applies to acts or omissions that occur on the effective date of
9 this subsection.

10 (END)

AD
RPN Insert 2-6

D - Note

The term "malicious" means behavior resulting from hatred, ill will or revenge, or undertaken when insult or injury is intended. Does that term limit the owner's, operator's, or employee's liability too much? Other terms used in the immunity chapters which are not as limiting include "reckless", "wilful" and "wanton".

Acts of omission, such as not cleaning a swimming pool, can result in significant injury.
RPN

Insert 2-C

**ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 174**

At the locations indicated, amend the bill as follows:

1. Page 2, line 4: delete the material beginning with "that" on that line and ending with

"operator" on line 6 and substitute: "the negligence of a person other than the owner or operator of the campground and the employees and agents of the owner or operator was a cause of the damage, death, or injury and all of the following apply:

(a) The cause of the damage, death, or injury ~~occurs~~ *took place* on the private campground property.

(b) Any negligence of the owner or operator or the employees or agents of the owner or operator that was the cause of the damage, death, or injury is an act of omission.

(c) The owner or operator or the employees or agents of the owner or operator are not joint tortfeasors with any person other than the owner or operator or the employees or agents of the owner or operator with respect to the damage, death, or injury.

(b) - (3) - immunity under sub. (a) does not apply if the
(d) The damage, death, or injury is ~~not~~ caused by either of the following:

(a) *(a)* An intentional or malicious act of the owner or operator or the employees or agents of the owner or operator.

(b) - (a) The malicious failure of the owner or operator or the employees or agents of the owner or operator to warn against an unsafe condition on the campground property, of which the owner or operator knew.

END

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0090/1dn
RPN:jld:jf

April 16, 2001

The term "malicious" means behavior resulting from hatred, ill will or revenge, or undertaken when insult or injury is intended. Does that term limit the owner's, operator's, or employee's liability too much? Other terms used in the immunity chapters which are not as limiting include "reckless", "wilful" and "wanton".

Acts of omission, such as not cleaning a swimming pool, can result in significant injury.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us