# 2013 DRAFTING REQUEST

Assen	nbly Amend	ment (AA-SI	B321)						
Receiv	ed: 12/23/2	2013		Re	eceived By:	phurley			
Wante	d: As tim	e permits		Sa	ame as LRB:				
For:	Gary I	Gary Hebl (608) 266-7678			By/Representing:				
Мау С	ontact:			D	rafter:	phurley			
Subject: Courts - immunity liability			A	ddl. Drafters:					
				E	ktra Copies:				
Reques	t via email: ster's email: a copy (CC) to:	_	ebl@legis.wis	consin.gov					
Pre To				-					
No spe	ecific pre topic	given							
Topic:									
Recrea	tional immunit	y for noncomm	ercial aviation						
Instru	ctions:								
See att	ached								
Drafti	ng History:			<del></del>			······		
Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	Submitted	Jacketed	Required		
/1	phurley 12/23/2013	scalvin 12/27/2013	jmurphy 12/27/2013		mbarman 12/27/2013	mbarman 12/27/2013			
FE Sei	nt For:								

<END>

# 2013 DRAFTING REQUEST

Assembly	Amend	ment (AA-S	SB321)				
Received:	12/23/	2013			Received By:	phurley	
Wanted:	As tim	e permits			Same as LRB:		
For:	Gary l	Hebl (608) 26	6-7678		By/Representing	:	
May Contac	t:				Drafter:	phurley	
Subject: Courts - immunity liability				Addl. Drafters:			
					Extra Copies:		
Submit via e Requester's Carbon copy	email:	-	Hebl@legis.v	wisconsin.go	v		
Pre Topic:							
No specific	pre topic	given					
Topic:							
Recreationa	l immuni	ty for noncom	mercial aviati	ion			
Instruction	s:						<del></del>
See attached	i						
Drafting H	istory:						
Vers. Draf	<u>ted</u>	Reviewed	<u>Typed</u>	Proofed	Submitted	Jacketed	Required
/1 phur	ley	/  sac 12/87/2013	/1 sac 12/27/2013	gr. 10/2	- - ^		

<**END>** 

FE Sent For:



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## State of Misconsin 2013 - 2014 LEGISLATURE



### **2013 SENATE BILL 321**

October 2, 2013 – Introduced by Senators Leibham, Grothman, Gudex, Hansen, Harsdorf 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.

AN ACT to amend 895.52 (1) (g) and 895.525 (2) of the statutes; relating to:

limitation of a 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.

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:

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

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

**Section 2.** 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,

#### **SENATE BILL 321**

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but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, nature study, dancing, bicycling, horseback riding, exploring caves. horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, noncommercial aviation, 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.

11 (END)



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# State of Misconsin 2013 - 2014 LEGISLATURE



# ASSEMBLY AMENDMENT, TO SENATE BILL 321



1	At the locations indicated, amend the bill as follows:
2	1. Page 2, line 15: after that line insert:
3	"Section 1d. 895.52 (2) (a) (intro.) of the statutes is amended to read:
4	895.52 (2) (a) (intro.) Except as provided in subs. (3) to (6) (6m), no owner and
5	no officer, employee or agent of an owner owes to any person who enters the owner's
6	property to engage in a recreational activity:
7	History: 1983 a. 418; 1985 a. 29; 1989 a. 31; 1995 a. 27, 223, 227; 1997 a. 242; 2011 a. 93, 208; 2013 a. 20.  SECTION 1m. 895.52 (2) (b) of the statutes is amended to read:
8	895.52 (2) (b) Except as provided in subs. (3) to (6) (6m), no owner and no officer,
9	employee or agent of an owner is liable for the death of, any injury to, or any death

or injury caused by, a person engaging in a recreational activity on the owner's

property or for any death or injury resulting from an attack by a wild animal.

History: 1983 a. 418; 1985 a. 29; 1989 a. 31; 1995 a. 27, 223, 227; 1997 a. 242; 2011 a. 93, 208; 2013 a. 20.

SECTION 1r. 895.52 (6m) of the statutes is created to read:

1	895.52 (6m) Liability; noncommercial aviation. Subsection (2) does not limit
2	the liability of a property owner, officer, employee, or agent of an owner for a death
3	or injury that occurs on the property if all of the following are true:
4	(a) The death or injury is caused by participation in noncommercial aviation.
5	(b) The property is used for noncommercial aviation.
6	(c) The death or injury is caused an act or omission by the owner, officer,
7	employee, or agent that constitutes gross negligence or involves reckless, wanton or
8	intentional misconduct.".
9	(END)