

Making Property Available for Recreational Use

By Jon Sharp | Hardenbergh Insurance Group

March 2025

State recreational use statutes offer some degree of protection to property that is made available for recreational use, either free of charge or only for a nominal fee. The type of protection provided and its applicability to any specific situation depend greatly on state, and sometimes local, laws.



The considerations listed below are only a starting point to help you evaluate whether you should make your property available for recreational use. Be aware that state recreational use statutes vary widely, judicial interpretations differ greatly and, as a result, similar statutes may yield different results in different courts. For this reason, you should consult legal counsel and the experts at Hardenbergh Insurance Group to be sure you understand the extent of your liability correctly.

Limited Scope

Some states limit the protection offered by recreational use statutes to individuals who open their land to the general public instead of only to a select group. Therefore, in some states, you should be careful when evaluating the extent of your liability when allowing exclusive access to your land for a certain group.

Important Exceptions

State recreational use statutes may not protect you against liability in many states if you charge a fee for the use of your property or are guilty of malicious conduct.

The specific details necessary to prove the existence of these conditions also depends greatly on state law. Also, pay careful attention to any language that specifically excludes or includes minors in the definition of a recreational user.

Types of Land

Most state recreational use statutes apply broadly to land and water areas as well as to the buildings, structures and machinery or equipment that are on them. However, in some states, the statutes are expressly limited to specific types of land. For example, Colorado law includes recreational use protections to some abandoned mining operation lands.

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Definition of Recreational Use

Many of the state statutes include a list of activities that fall within the definition of recreational use, such as hiking, swimming, fishing, pleasure diving and nature study. However, some states, like Washington and Florida, limit the definition to only those activities that can be pursued outdoors.

Public Entities

Some states, like Alabama, specifically include public entities under the definition of land owner. This means that public land falls under the protection of state recreational use statutes. Other states, specifically exclude public entities from the definition of owner, and still others are silent on the issue, leaving it to their courts to decide the issue.

Insurance Protection

When in doubt about your protection under state recreational use statutes, talk to Hardenbergh Insurance Group about the appropriateness of a Premises Liability Policy.

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