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HOUSE BILL 12

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Jim R. Trujillo and Carlos R. Cisneros

AN ACT

RELATING TO GAME AND FISH; SETTING FORTH AN OWNER'S DUTY OF CARE FOR ALLOWING THE USE OF PROPERTY FOR RECREATIONAL PURPOSES; LIMITING LIABILITY FOR ALLOWING THE USE OF PROPERTY FOR RECREATIONAL PURPOSES; DEFINING "OWNER", "PROPERTY" AND "RECREATIONAL PURPOSES".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 17-4-7 NMSA 1978 (being Laws 1967, Chapter 6, Section 1) is amended to read:

"17-4-7. LIABILITY OF LANDOWNER PERMITTING PERSONS TO ~~[HUNT, FISH OR]~~ USE LANDS FOR ~~[RECREATION]~~ RECREATIONAL PURPOSES--DUTY OF CARE--EXCEPTIONS.--

~~[A. Any owner, lessee or person in control of lands who, without charge or other consideration, other than a consideration paid to said landowner by the state, the federal~~

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1 ~~government or any other governmental agency, grants permission~~
2 ~~to any person or group to use his lands for the purpose of~~
3 ~~hunting, fishing, trapping, camping, hiking, sightseeing or any~~
4 ~~other recreational use does not thereby:~~

5 ~~(1) extend any assurance that the premises are~~
6 ~~safe for such purpose; or~~

7 ~~(2) assume any duty of care to keep such lands~~
8 ~~safe for entry or use; or~~

9 ~~(3) assume responsibility or liability for any~~
10 ~~injury or damage to or caused by such person or group;~~

11 ~~(4) assume any greater responsibility, duty of~~
12 ~~care or liability to such person or group than if such~~
13 ~~permission had not been granted and such person or group were~~
14 ~~trespassers.~~

15 ~~B.]~~ A. Except as provided in Subsection C of this
16 section, an owner of property owes no duty of care to keep the
17 property safe for entry or use by a person or group for
18 recreational purposes or to give any warning of a dangerous
19 condition, use, structure or activity on the property to a
20 person or group entering for recreational purposes.

21 B. Except as provided in Subsection C of this
22 section, an owner of property who gives permission to a person
23 or group for entry or use of the property for recreational
24 purposes does not:

25 (1) extend any assurance that the property is

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1 safe for any recreational purpose;

2 (2) assume responsibility or liability for any
3 injury or damage to, or caused by, the person or group; or

4 (3) assume any greater responsibility, duty of
5 care or liability to the person or group than if the permission
6 had not been granted and the person or group were trespassers.

7 C. This section shall not limit the liability of
8 any [~~landowner, lessee or person in control of lands which~~
9 owner of property that may otherwise exist by law for injuries
10 to any person granted permission to [~~hunt, fish, trap, camp,~~
11 ~~hike, sightsee or~~] use the property for [~~recreation~~
12 recreational purposes in exchange for a consideration, other
13 than a consideration paid to [~~said landowner~~] the owner of
14 property by the state, the federal government or any other
15 governmental agency.

16 D. As used in this section:

17 (1) "owner" means the possessor of a fee
18 interest or a tenant, lessee, occupant or any other person in
19 control of property;

20 (2) "property" includes land, roads, water,
21 watercourses, paths, trails and private ways and any building,
22 structure, machinery or equipment that is attached to the
23 property; and

24 (3) "recreational purposes" means hunting,
25 fishing, trapping, camping, picnicking, hiking, horseback

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1 riding, snowshoeing, cross-country skiing, snowmobiling, ice
2 skating, hang gliding, recreational operation of aircraft,
3 swimming, water-skiing, tubing, rafting, canoeing, boating,
4 diving, spelunking, sightseeing, exploring, rock climbing,
5 roller skating, bicycling, other summer and winter sports, bird
6 watching, gold panning, target shooting, ice fishing,
7 photography, viewing or enjoying historical archaeological,
8 scenic or scientific sites or engaging in any other
9 recreational activity."

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