

By: Murphy

H.B. No. 1943

A BILL TO BE ENTITLED

1 AN ACT

2 relating to liability of certain public utilities that allow
3 recreational use of land that the public utility owns, occupies, or
4 leases.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 75.0021, Civil Practice and Remedies
7 Code, is amended to read as follows:

8 Sec. 75.0021. LIMITED LIABILITY OF CERTAIN PUBLIC
9 UTILITIES.

10 (a) In this section:

11 (1) "Person" includes an individual as defined by
12 Section 71.001.

13 (2) "Public utility" means:

14 (A) an electric utility as defined by Section
15 31.002, Utilities Code;

16 (B) a telecommunications provider as defined by
17 Section 51.002, Utilities Code;

18 (C) a cable service provider or video service
19 provider as defined by Section 66.002, Utilities Code;

20 (D) a gas utility as defined by Section 101.003
21 or 121.001, Utilities Code; or

22 (E) a water and sewer utility as defined by
23 Section 13.002, Water Code.

24 (3) "Recreation" means, in addition to its meaning

1 under Section 75.001, any activity undertaken for exercise,
2 education, relaxation, travel, or pleasure.

3 (b) A public utility that, as the owner, easement holder,
4 occupant, or lessee of land, gives permission to a person to enter
5 the premises for recreation:

6 (1) does not by giving that permission assure that the
7 premises are safe for recreation; and

8 (2) shall not assume responsibility or incur any
9 liability for: (i) damages arising from or related to bodily or
10 other personal injury or death to any person who enters the premises
11 for recreation or accompanies another person entering the premises
12 for recreation; (ii) property damage sustained by any person who
13 enters the premises for recreation or accompanies another person
14 entering the premises for recreation, or (iii) acts of any third
15 parties that occur on the premises, regardless of whether the act is
16 intentional. This subsection includes, but is not limited to, any
17 claim for damages:

18 (A) alleging gross negligence;

19 (B) alleging the application of the doctrine of
20 attractive nuisance; or

21 (C) arising from contact of a person or property
22 with power lines or exposure of a person or property to electric and
23 magnetic fields.

24 (c) A public utility that, as the owner, easement holder,
25 occupant, or lessee of land, allows the use of the premises for
26 recreation shall post and maintain a clearly readable sign in a
27 clearly visible location on or near the premises. The sign must

1 contain the following warning language:

2 TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE)
3 LIMITS THE LIABILITY OF A PUBLIC UTILITY FOR DAMAGES ARISING FROM
4 THE USE OF THIS PROPERTY FOR RECREATIONAL PURPOSES.

5 WARNING

6 (d) This section applies only to a public utility located
7 in:

8 (1) a county with a population of 600,000 or more and
9 located on the international border; or

10 (2) a municipal management district located in a
11 municipality with a population of more than 1.9 million.

12 SECTION 2. Chapter 75, Civil Practice and Remedies Code,
13 Section 75.003(b) is amended to read as follows:

14 (b) This chapter does not affect the doctrine of attractive
15 nuisance, except as follows:

16 (1) as limited by Section 75.0021(b); and

17 (2) the doctrine of attractive nuisance may not be the
18 basis of liability of an owner, lessee, or occupant of agricultural
19 land for any injury to a trespasser over the age of 16 years.

20 SECTION 3. The change in law made by this Act applies only
21 to a cause of action that accrues on or after the effective date of
22 this Act. A cause of action that accrues before the effective date
23 of this Act is governed by the law in effect immediately before that
24 date, and that law is continued in effect for that purpose.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 1943

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2011.