

By: S. Davis of Harris

H.B. No. 3802

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, ~~signs an agreement with a~~
5 ~~municipality, county, or political subdivision to allow public~~
6 ~~access to or use of the premises for recreation by allowing the~~
7 ~~public access or use does not assume responsibility or incur~~
8 ~~liability beyond that provided by Chapter 75 of the Civil Practice~~
9 ~~and Remedies Code to a third party who enters the premises for~~
10 ~~recreation to the extent the municipality, county, or political~~
11 ~~subdivision purchases a general liability insurance policy in~~
12 ~~amounts required by Chapter 75 of the Civil Practice and Remedies~~
13 ~~Code insuring the public utility for liability arising from the~~
14 ~~condition of the premises for such recreational use. gives~~
15 permission to a person to enter the premises for recreation:

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

18 (2) shall not assume responsibility or incur any
19 liability for: (i) damages arising from or related to bodily or
20 other personal injury or death to any person who enters the premises
21 for recreation or accompanies another person entering the premises
22 for recreation; (ii) property damage sustained by any person who
23 enters the premises for recreation or accompanies another person
24 entering the premises for recreation, or (iii) acts of any third
25 parties that occur on the premises, regardless of whether the act is
26 intentional. This subsection includes, but is not limited to, any
27 claim for damages:

1 agricultural land for any injury to a trespasser over the age of 16
2 years.

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

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2011.