

AN ACT

relating to the liability of landowners for damage or injury,
including liability for harm to a trespasser.

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

SECTION 1. The heading to Section 75.006, Civil Practice
and Remedies Code, is amended to read as follows:

Sec. 75.006. LIABILITY LIMITED FOR ACTIONS OF FIREFIGHTER,
FEDERAL LAW ENFORCEMENT OFFICER, OR PEACE OFFICER.

SECTION 2. Section 75.006, Civil Practice and Remedies
Code, is amended by amending Subsection (a) and adding Subsections
(c), (d), and (e) to read as follows:

(a) In this section:

(1) "Federal law enforcement officer" means a law
enforcement officer as defined by 5 U.S.C. Section 8331(20).

(2) "Firefighter" means a member of a fire department
who performs a function listed in Section 419.021(3)(C), Government
Code.

(3) [~~2~~] "Livestock" has the meaning assigned by
Section 1.003, Agriculture Code.

(4) [~~3~~] "Peace officer" has the meaning assigned by
Section 1.07, Penal Code, or other state or federal law.

(c) An owner, lessee, or occupant of agricultural land is
not liable for any damage or injury to any person or property that
arises from the actions of a peace officer or federal law

1 enforcement officer when the officer enters or causes another
2 person to enter the agricultural land with or without the
3 permission of the owner, lessee, or occupant, regardless of whether
4 the damage or injury occurs on the agricultural land.

5 (d) The owner, lessee, or occupant of agricultural land is
6 not liable for any damage or injury to any person or property that
7 arises from the actions of an individual who, because of the actions
8 of a peace officer or federal law enforcement officer, enters or
9 causes another person to enter the agricultural land without the
10 permission of the owner, lessee, or occupant.

11 (e) This section does not limit the liability of an owner,
12 lessee, or occupant of agricultural land for any damage or injury
13 that arises from a wilful or wanton act or gross negligence by the
14 owner, lessee, or occupant.

15 SECTION 3. Chapter 75, Civil Practice and Remedies Code, is
16 amended by adding Section 75.007 to read as follows:

17 Sec. 75.007. TRESPASSERS. (a) In this section,
18 "trespasser" means a person who enters the land of another without
19 any legal right, express or implied.

20 (b) An owner, lessee, or occupant of land does not owe a duty
21 of care to a trespasser on the land and is not liable for any injury
22 to a trespasser on the land, except that an owner, lessee, or
23 occupant owes a duty to refrain from injuring a trespasser
24 wilfully, wantonly, or through gross negligence.

25 (c) Notwithstanding Subsection (b), an owner, lessee, or
26 occupant of land may be liable for injury to a child caused by a
27 highly dangerous artificial condition on the land if:

1 (1) the place where the artificial condition exists is
2 one upon which the owner, lessee, or occupant knew or reasonably
3 should have known that children were likely to trespass;

4 (2) the artificial condition is one that the owner,
5 lessee, or occupant knew or reasonably should have known existed,
6 and that the owner, lessee, or occupant realized or should have
7 realized involved an unreasonable risk of death or serious bodily
8 harm to such children;

9 (3) the injured child, because of the child's youth,
10 did not discover the condition or realize the risk involved in
11 intermeddling with the condition or coming within the area made
12 dangerous by the condition;

13 (4) the utility to the owner, lessee, or occupant of
14 maintaining the artificial condition and the burden of eliminating
15 the danger were slight as compared with the risk to the child
16 involved; and

17 (5) the owner, lessee, or occupant failed to exercise
18 reasonable care to eliminate the danger or otherwise protect the
19 child.

20 (d) An owner, lessee, or occupant of land whose actions are
21 justified under Subchapter C or D, Chapter 9, Penal Code, is not
22 liable to a trespasser for damages arising from those actions.

23 (e) This section does not affect Section 75.001, 75.002,
24 75.0021, 75.003, or 75.004 or create or increase the liability of
25 any person.

26 SECTION 4. The change in law made by this Act applies only
27 to a cause of action that accrues on or after the effective date of

1 this Act. A cause of action that accrues before the effective date
2 of this Act is governed by the law in effect immediately before the
3 effective date of this Act, and that law is continued in effect for
4 that purpose.

5 SECTION 5. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1160 passed the Senate on March 31, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 9, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1160 passed the House, with amendments, on May 4, 2011, by the following vote: Yeas 130, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor