By: Patrick S.B. No. 1793

A BILL TO BE ENTITLED

AN ACT

2	relating	to	liability	of	certain	public	utilities	that	allow

2 relating to readility of octobrin public deriffers that arrow

recreational use of land that the public utility owns, occupies, or

4 leases.

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- 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 <u>(A)</u> 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;
- (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
- (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.
- (b) A public utility that, as the owner, easement holder, 3 4 occupant, lessee of land, signs an agreement municipality, county, or political subdivision to allow public 5 6 access to or use of the premises for recreation by allowing the 7 public access or use does not assume responsibility or incur liability beyond that provided by Chapter 75 of the Civil Practice 8 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 amounts required by Chapter 75 of the Civil Practice and Remedies 12 13 Code insuring the public utility for liability arising from the condition of the premises for such recreational use. gives 14 15 permission to a person to enter the premises for recreation:
- 16 <u>(1) does not by giving that permission assure that the</u>
 17 premises are safe for recreation; and
- 18 (2) shall not assume responsibility or incur any liability for: (i) damages arising from or related to bodily or 19 20 other personal injury or death to any person who enters the premises for recreation or accompanies another person entering the premises 21 for recreation; (ii) property damage sustained by any person who 22 23 enters the premises for recreation or accompanies another person entering the premises for recreation, or (iii) acts of any third 24 parties that occur on the premises, regardless of whether the act is 25 intentional. This subsection includes, but is not limited to, any 26 27 claim for damages:

1	(A) alleging gross negligence;							
2	(B) alleging the application of the doctrine of							
3	attractive nuisance; or							
4	(C) arising from contact of a person or property							
5	with power lines or exposure of a person or property to electric and							
6	magnetic fields.							
7	(c) A public utility that, as the owner, easement holder,							
8	occupant, or lessee of land, allows the use of the premises for							
9	recreation shall post and maintain a clearly readable sign in a							
10	clearly visible location on or near the premises. The sign must							
11	contain the following warning language:							
12	TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE)							
13	LIMITS THE LIABILITY OF A PUBLIC UTILITY FOR DAMAGES ARISING FROM							
14	THE USE OF THIS PROPERTY FOR RECREATIONAL PURPOSES.							
15	WARNING							
16	[This section applies only to a public utility located in:							
17	(1) a county with a population of 600,000 or more and							
18	located on the international border; or							
19	(2) a municipal management district located in a							
20	municipality with a population of more than 1.9 million.							
21	SECTION 2. Chapter 75, Civil Practice and Remedies Code, is							
22	amended by amending Section 75.003(b) to read as follows:							
23	(b) This chapter does not affect the doctrine of attractive							
24	nuisance, except that as follows:							
25	(1) as limited by Section 75.0021(b); and							
26	(2) the doctrine of attractive nuisance may not be the							
27	basis of for liability of an owner, lessee, or occupant of							

S.B. No. 1793

- 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.