

BILL ANALYSIS

C.S.H.B. 2839
By: Frullo
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State law limits the liability of Texas landowners who allow others to use their land for certain recreational activities, such as hunting or fishing, but aviation activities currently are not included among those activities. Interested parties contend that, although many private airfield owners would welcome the opportunity to allow planes flown for recreational purposes to land on their airfields, they are hesitant to allow public access because of concerns that they may be held liable for incidents occurring on their land. C.S.H.B. 2839 addresses the liability of private landowners who allow public use of their property for recreational aviation activities in an effort to increase the recreational use of airplanes across the state as well as the economic activity that accompanies such recreation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2839 amends the Civil Practice and Remedies Code to expand the definition of "recreation," for the purposes of statutory limitations on a landowner's liability, to include aviation activities in connection with the use of a landing or takeoff area, provided that the landing or takeoff area complies with the Federal Aviation Administration notification requirements; the owner, lessee, or occupant of the land on which the landing or takeoff area is located is not a governmental unit; the landing or takeoff area is held open to the public for aviation activities by the owner, lessee, or occupant of the land; and the owner, lessee, or occupant of the land does not charge for the use of the landing or takeoff area. The bill defines "aviation activities," for the same purposes of statutory limitations on a landowner's liability, as the operation, including taxiing, handling, taking off, flying, or landing, of an airplane or other aircraft.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2839 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 75.001, Civil Practice	SECTION 1. Section 75.001, Civil Practice

83R 26182

13.120.869

Substitute Document Number: 83R 22385

and Remedies Code, is amended by adding Subdivision (1-a) and amending Subdivisions (2) and (3) to read as follows:
(1-a) "Aviation activities" means the taxiing, taking off, flying, or landing of an airplane or other aircraft.

(2) "Premises" includes land, roads, water, watercourse, private ways, and airstrips and buildings, structures, machinery, and equipment attached to or located on the land, road, water, watercourse, [ø] private way, or airstrip.

(3) "Recreation" means an activity such as:
(A) hunting;
(B) fishing;
(C) swimming;
(D) boating;
(E) camping;
(F) picnicking;
(G) hiking;
(H) pleasure driving, including off-road motorcycling and off-road automobile driving and the use of all-terrain vehicles;
(I) nature study, including bird-watching;
(J) cave exploration;
(K) waterskiing and other water sports;
(L) any other activity associated with enjoying nature or the outdoors;
(M) bicycling and mountain biking;
(N) disc golf;
(O) on-leash and off-leash walking of dogs; [ø]
(P) radio control flying and related activities; or
(Q) aviation activities.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues

and Remedies Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Aviation activities" means the operation, including taxiing, handling, taking off, flying, or landing, of an airplane or other aircraft.

(3) "Recreation" means an activity such as:
(A) hunting;
(B) fishing;
(C) swimming;
(D) boating;
(E) camping;
(F) picnicking;
(G) hiking;
(H) pleasure driving, including off-road motorcycling and off-road automobile driving and the use of all-terrain vehicles;
(I) nature study, including bird-watching;
(J) cave exploration;
(K) waterskiing and other water sports;
(L) any other activity associated with enjoying nature or the outdoors;
(M) bicycling and mountain biking;
(N) disc golf;
(O) on-leash and off-leash walking of dogs; [ø]
(P) radio control flying and related activities; or
(Q) aviation activities in connection with the use of a landing or takeoff area:
(i) that complies with the Federal Aviation Administration notification requirements under 14 C.F.R. Part 157;
(ii) located on land the owner, lessee, or occupant of which is not a governmental unit;
(iii) held open to the public for aviation activities by the owner, lessee, or occupant of the land on which the landing or takeoff area is located; and
(iv) for the use of which the owner, lessee, or occupant of the land does not charge.

SECTION 2. Same as introduced version.

before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.