

Law Bulletin



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Law you need to know from OSU Extension's Farm Office

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Ohio's Recreational User Statute: Limiting Liability for Hunters, Snowmobilers and More

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Have people asked you to allow them to hunt, fish, hike or snowmobile on your land? If you say yes, will you be liable if they're injured while on your land? Ohio's Recreational User Statute can protect you in this situation. The Ohio legislature enacted the law years ago to encourage owners of non-residential lands such as farms and wood lots to allow others to use the lands for recreation. In exchange for allowing the use, landowners receive immunity from liability for injuries.

Typically, a landowner has a legal duty to keep their premises safe for visitors. A landowner could be liable for injuries that result from failing to make the property safe or not warning a visitor of the unsafe property conditions. The Recreational User Statute changes this general rule. The law states that an owner, lessee, or occupant of premises in Ohio does not:

- Owe any duty to a recreational user to keep the premises safe,
- Give any promises or assurances of the premises being safe merely by granting permission,
- Or assume responsibility or liability for injuries caused by any act of a recreational user.

The statute doesn't prevent an injured person from *trying* to make a landowner liable for the harm. Where there is an injury, there is likely to be a lawsuit. If there is a lawsuit, the Recreational User's Statute provides a legal defense of statutory immunity that the landowner can raise in order to prevent liability and force the claim to be dismissed. To qualify for this immunity however, a landowner must meet and prove each one of the statute's four requirements.

Here are the four conditions a landowner must meet to qualify for immunity under Ohio's Recreational User Statute:

1. The visitor is engaging in a "recreational pursuit"

The property visitor must be a "recreational user," which means someone who is engaging in the types of recreational activities listed in the statute, which includes:

- Hunting
- Fishing
- Trapping
- Camping
- Hiking
- Swimming
- Operating a snowmobile, all-purpose vehicle or four-wheel drive motor vehicle
- Or engaging in "other recreational pursuits"

Note the catch-all phrase for "other recreational pursuits," which could encompass non-listed recreational activities that might take place on farmland, such as hunting for archaeological relics, hot air ballooning, sledding, paint balling, and similar activities.

2. The recreational activity takes place on "non-residential premises."

The Recreational User Statute applies only to "non-residential premises," and it's important to understand what types of property the term includes. The law defines "premises" as non-residential privately owned lands, ways, and waters and non-residential privately owned and state owned lands, ways and waters that are leased to a private party. All buildings and structures on the non-residential lands and waters are included in the definition of premises.

Considering a farm property, the Recreational User Statute would apply to fields, wood lots, waters and structures that are beyond the residential portion of the property, but would not apply in or around the residence. If the landowner has leased the farm to another, the statute continues to apply to the lands, woods, waters and structures that are under lease.

3. The recreational user has “permission” to do the recreational activity on the premises.

The law applies only if the recreational user has permission to be on the premises and engage in the recreational activity. But the law doesn't state exactly what constitutes “permission” or how to grant permission, and the statute does not require that the permission be in writing. In the case of *Stiner v. Dechant*, 114 Ohio App. 3d 209 (9th Dist. 1996), an Ohio court determined that standing by and allowing a recreational use such as snowmobiling, without trying to prevent the use, is sufficient “permission” from a landowner. Even so, a landowner or lessee of the property must be prepared to prove that he or she granted permission to the recreational user. It would certainly be easier to prove written rather than verbal permission, and most difficult would be to prove that the landowner simply “allowed” the recreational use as above. A landowner who gives verbal permission or grants permission should document the permission. For example, have a witness present, take notes of the date, time, circumstances, and the scope of the permission, take pictures or videos of the situation, or devise similar actions that can prove that the recreational user had permission to be on the property for recreational purposes.

4. The landowner does not receive a “fee or consideration” for the recreational activity.

The Recreational User Statute applies only if there is no fee or other consideration given for the recreational activity. The landowner or lessee who charges the recreational user a fee or other type of legal consideration (i.e., payment or benefit) will not receive the law's liability protection. For example, a farmer who charges admission to fish on the farm or requires a person to provide labor in exchange for fishing will not have immunity under this law if someone is harmed at the lake. Because the farmer is receiving money and other benefits from the recreational activity, the law does not grant the farmer immunity and instead places a higher legal duty on the farmer to keep the person safe.

There is an important exception to the “no fee” requirement: a landowner may accept a lease payment for the recreational use and receive the law's protection. This exception came about when hunting clubs sought to lease lands for hunting but found that landowners were not willing to accept lease payments because they would lose the Recreational User's Statute protection. Hunting interests convinced lawmakers to change the law so that landowners could accept a lease payment. Even though the statute includes this exception, landowners who enter into such leases should reference the statute and clarify in the lease that the Recreational User's Statute does apply.

Pulling it all together: Frequently Asked Questions

Should I still use a waiver for recreational uses of my land?

The Recreational User Statute negates the need for a written waiver of liability. Instead, consider using a written permission form that includes the person's name, the property, the date, a statement of permission to engage in the recreational activities, and the language of the Recreational User Statute. Both parties should sign the form. If you still want to use a waiver, it should be narrow, detailed, and written by an attorney.

Do I have to allow anyone and everyone on my property?

No. A landowner may limit recreational users and does not have to keep the land publicly open to everyone in order to receive Recreational User Statute immunity.

Do I still have to give hunters written permission?

Yes. Ohio law requires hunters to receive written permission from a landowner before hunting. But note that landowners are doubly protected from liability for hunters. If a hunter fails to get written permission, Ohio law states the landowner is not liable for the hunter's harm. If the hunter does obtain permission, the Recreational User Statute protects the landowner from liability.

How does the law affect recreational trespassers?

The statute can provide liability protection for persistent trespassing situations. For example, a farmer who sees someone regularly riding an ATV across the farm could grant permission to that person and no longer worry about liability if the person would be hurt while on the property. Of course, this is helpful only if the landowner doesn't mind allowing the ATV rider on the property.

So, I don't have to worry about safety at all?

Not exactly. You should still worry about ensuring that recreational users aren't harmed by dangerous conditions on your property that you can control, repair, or warn against. Don't let the law replace your common safety practices.

Where to find the laws

- Ohio Recreational User's Statute is in Ohio Revised Code [§1533.18](#) and [§1533.181](#).
- Hunting without permission, Ohio Revised Code [§1533.17](#).

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