

## 1 HOUSE BILL NO. 570

2 INTRODUCED BY W. STAHL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LANDOWNER LIABILITY LAWS RELATED TO  
5 RECREATIONAL USE; PROVIDING A DEFINITION OF "VALUABLE CONSIDERATION"; AND AMENDING  
6 SECTION 70-16-302, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 70-16-302, MCA, is amended to read:

11 **"70-16-302. (Temporary) Restriction on liability of landowner -- definitions.** (1) A person who uses  
12 property, including property owned or leased by a public entity, for recreational purposes, with or without  
13 permission, does so without any assurance from the landowner that the property is safe for any purpose if the  
14 person does not give a valuable consideration to the landowner in exchange for the recreational use of the  
15 property. The landowner owes the person no duty of care with respect to the condition of the property, except  
16 that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes  
17 willful or wanton misconduct. ~~For purposes of this section, valuable consideration does not include the state land  
18 recreational use license fee imposed under 77-1-802 or other funds provided under 77-1-815.~~

19 (2) As used in this part, the following definitions apply:

20 (a) (i) "Airstrip" means improved or unimproved landing areas on private land used by pilots to land, park,  
21 take off, unload, load, and taxi aircraft.

22 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

23 (b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking  
24 off, unloading, loading, and taxiing of aircraft at an airstrip.

25 (c) "Landowner" means a person or entity of any nature, whether private, governmental, or  
26 quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
27 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
28 property or with an agreement to use or occupy property.

29 (d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes  
30 any improvements, buildings, structures, machinery, and equipment on property.

1 (e) (i) "Valuable consideration" means an amount of more than \$250 per person per day.

2 (ii) For purposes of this section, valuable consideration does not include the state land recreational use  
 3 license fee imposed under 77-1-802 or other funds provided under 77-1-815.

4 (3) The department of fish, wildlife, and parks, when operating under an agreement with a landowner  
 5 or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area,  
 6 subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile  
 7 area operator on the property, does not extend any assurance that the property is safe for any purpose, and the  
 8 department, the landowner, or the landowner's tenant may not be liable to any person for any injury to person  
 9 or property resulting from any act or omission of the department unless the act or omission constitutes willful or  
 10 wanton misconduct. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

11 **70-16-302. (Effective on occurrence of contingency) Restriction on liability of landowner --**  
 12 **definitions.** (1) A person who uses property, including property owned or leased by a public entity, for  
 13 recreational purposes, with or without permission, does so without any assurance from the landowner that the  
 14 property is safe for any purpose if the person does not give a valuable consideration to the landowner in  
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