



# New Hampshire's Landowner Liability Laws

R.S.A. Sec. 508:14 and Sec. 212:34

The State of New Hampshire has two laws limiting the liability of landowners in order to encourage property owners to open their land to the public for recreational use. The effect of the laws is to give owners, lessees, or occupants of land who permit the public to use their land without charge for recreational purposes broad legal protections against liability claims resulting from property damage and personal injury.

The laws provide that a landowner, lessee, or occupant owes no duty of care to a person who enters upon the land for recreational purposes or to watch recreational activities other than to avoid intentionally or maliciously causing injury or damage to the visitor. Therefore, a landowner is not liable for any personal injury or property damage claims by recreational users unless the landowner intentionally or maliciously brings about the injury or damage.

An owner, lessee, or occupant of the land is not obligated to inspect the premises for hazardous conditions, give any warnings of hazardous conditions, or keep the property safe for entry by recreational users. However, property owners cannot intentionally or maliciously fail to guard or warn against a known danger in order to cause injurious results.

The laws do not extend liability protection to any landowner who collects a fee or some form of payment from the recreational users. Individuals who are invited onto the land for a reason other than recreation are also not covered by the law. In addition, the laws do not extend liability protection to landowners

when a recreational user injures another person to whom the owner owes a duty to keep the premises safe or to warn of danger, such as someone invited onto the land for purposes other than recreation.

"Recreational use" is defined in the statute as hunting, fishing, trapping, camping, water sports, winter sports, hiking, sightseeing, removal of fuelwood, or use of off-highway road vehicles (OHRVs) such as snowmobiles, ATVs, motorized trail bikes, or motor vehicles. The laws do not relieve the recreational user from assuming the risk of the sport and exercising due care for their own safety while using the land.

The law applies to all types of land, including land that has been posted and waterbodies on private land. Landowner liability is the same whether or not there is a conservation or recreation easement on the property. The state, counties, and municipalities also enjoy this liability protection.

Case law indicates that the courts will narrowly interpret the statutes by extending liability limitations only to what the legislature has set out in the laws.

Homeowner's insurance may provide additional protection against a claim of liability because these policies usually cover the home, adjacent structures, surrounding acreage, and even other parcels of vacant land the homeowner owns, so long as they are not being actively used for farming, timbering, or for-profit recreation operations.