

Farm Management

Landowners protected from liability



Country Counsel

By ROBERT MOORE

THE fall hunting season will soon be upon us, and with it, many hunters requesting permission to hunt on land. Hunters provide a very valuable service to landowners by helping maintain a healthy and manageable wildlife population. However, many landowners may have concerns about the potential liability of allowing hunters on their property. Landowners may find comfort in knowing that Ohio's laws provide them with considerable liability protection.

The primary liability protection for landowners is Ohio's Recreational Users Statute. This law provides immunity for landowners who allow others to use their land for recreational uses, including hunting, fishing, trapping, camping, hiking, swimming, operating a snowmobile or all-purpose vehicle, or engaging in other recreational pursuits. In essence, if a person is injured while engaging in a recreational activity, the landowner is not liable. The landowner does not have a duty to inspect the property, warn of dangers or remedy dangerous conditions. The recreational user assumes the risks of entering the property and engaging in the recreational activity.



The only duty the landowner has is to not intentionally harm the recreational user.

In 2005, the Ohio Legislature passed the Ohio Tort Reform Act, which makes the Recreational Users Statute even more protective of landowners. Better known for providing immunity to restaurants for obesity claims, this legislation allows landowners to be paid by hunters for the use of their land. The intent of the Ohio Legislature in allowing landowners to take payments from hunters was likely to open up more land for hunters.

More hunting leases

The Tort Reform Act has likely been directly responsible for the increase of hunting leases in Ohio. Prior to the Tort Reform Act, landowners who received payments from hunters were not protected by the Recreational Users Statute. Thus, most landowners were reluctant to lease

their land for hunting. Now, however, landowners can receive hunting lease payments and still enjoy the liability protection of the Recreational Users Statute.

Hunters must have written permission to hunt on the land of others. The hunter must carry this written permission at all times while hunting. Failure to do so can result in a third-degree misdemeanor.

Not all visitors to a landowner's property are recreational users. Ohio law also provides protection to landowners for other types of visitors — both invited and uninvited. The level of protection to the landowner depends on whether the visitor is a trespasser or a permitted visitor.

A landowner is generally not liable for injuries to a trespasser so long as the landowner did not intentionally harm the trespasser. A landowner must warn a permitted visitor of any dangerous conditions that might cause harm. If the visitor is on

the property for the landowner's benefit, the landowner must also attempt to correct any known dangerous conditions.

For example, a trespasser enters onto a landowner's property and becomes injured after getting entangled in an old fence. The landowner is likely protected from liability because the landowner's only duty to the trespasser is to not intentionally harm him.

As another example, a visitor is allowed on the landowner's property to cut firewood for the visitor's own use. The landowner has a duty to warn the visitor about the fence if the landowner is aware of the dangerous condition; however, the landowner does not have the duty to repair or remove the fence.

Finally, if the visitor is on the property to cut timber for the landowner's benefit, the landowner should not only warn the visitor about fence, but should attempt to repair or remove the fence, if feasible.

While Ohio law does provide considerable protection for landowners, it is still of the utmost importance to have a good liability insurance policy. A visit with your insurance agent to review the policy to ensure you are fully covered is time well spent.

Moore is an attorney with
Wright and Moore Law Co. LPA
614-791-9112
rmoore@wright-law.net

BLU-JET
www.BLU-JET.com

SUBTILLER 4™
Cut Compaction, Maintain Moisture

STRIPTILL SYSTEMS
Firm and seal rows all in one pass

AT4610™
Cone bottom tank
minimizes waste by
ensuring complete
drain out

Call today for row spacing options
800.658.3127

AT6020™
Accurately place fertilizer
in the root bed

See Us At **FARM SCIENCE REVIEW**
Booth #179

fb.com/BLUJET
youtube.com/BLUJET01