

Farm Management

Hunting not a liability to landowner

THE fall hunting season is upon us and with it the many hunters that help keep a healthy and manageable wildlife population in Ohio.

Hunters provide a very valuable service to landowners, but landowners also may have concerns about the potential liability of allowing hunters on their property. Landowners may find comfort



Country Counsel

By ROBERT MOORE

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 pur-

suits. In essence, if a person is injured or harmed 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.

Helped by tort reform

In 2005, the Ohio Legislature passed the Ohio Tort Reform law, which made the Recreational Users Statute even more protective of landowners. Better known for providing immunity to restaurants for obesity claims, this legislation allowed 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. It likely has had the opposite effect. Hunting leases have become very popular because they provide the landowner a guaranteed source of income without compromising liability protection. The issue becomes that the leased land can only be used by the lessee and prevents the rest of the general public from using the land.

Hunters must have written permission to hunt on the land of others. This written permission must be carried by the hunter 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. The level of protection to the landowner depends on whether the visitor is a trespasser or a permitted visitor.

A landowner is 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 to the visitor. 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 the fence as described above. The landowner is 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 must not only warn the visitor about fence, but should attempt to repair or remove the fence if feasible.

Moore, with Wright Law Co. LPA, can be reached at rmoore@wright-law.net.

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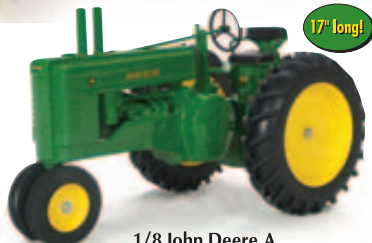
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