



Addendum C: WI State Statue 895.519 & 895.525

895.519 Civil liability exemption; private campgrounds.

- (1) In this section:
 - (am) "Inherent risk of camping" means a danger or condition that is an integral part of camping, including dangers posed by any of the following:
 1. Features of the natural world, such as trees, tree stumps, roots, brush, rocks, mud, sand, and soil.
 2. Uneven or unpredictable terrain.
 3. Natural bodies of water.
 4. Another camper or visitor at the private campground acting in a negligent manner, where the campground owner or employees are not involved.
 5. A lack of lighting, including lighting at campsites.
 6. Campfires in a fire pit or enclosure provided by the campground.
 7. Weather.
 8. Insects, birds, and other wildlife.
 - (bm) "Private campground" means a facility that is issued a campground license under s. 97.67 and that is owned and operated by a private property owner, as defined in s. 895.52 (1) (e).
- (2) Except as provided in sub. (3), a private campground, an owner or operator of a private campground, and any employees and officers of a private campground or private campground owner or operator are immune from civil liability for acts or omissions related to camping at a private campground if a person is injured or killed, or property is damaged, as a result of an inherent risk of camping.
- (3) The immunity of sub. (2) does not apply if the person seeking immunity does any of the following:
 - (a) Intentionally causes the injury, death, or property damage.
 - (b) Acts with a willful or wanton disregard for the safety of the party or the property damaged. In this paragraph, "willful or wanton disregard" means conduct committed with an intentional or reckless disregard for the safety of others.
 - (c) Fails to conspicuously post warning signs of a dangerous inconspicuous condition known to him or her on the property that he or she owns, leases, rents, or is otherwise in lawful control or possession of.
- (4) This section does not limit the immunity created under s. 895.52.
- (5) Nothing in this section affects the assumption of risk under s. 895.525 by a person participating in a recreational activity including camping.

History: 2015 a. 293; 2017 a. 365 ss. 87, 110.

The Exculpatory Contract and Public Policy. Anzivino. 102 MLR 747 (2019)

895.525 Participation in recreational activities; restrictions on civil liability, assumption of risk.

- (1) Legislative purpose. The legislature intends by this section to establish the responsibilities of participants in recreational activities in order to decrease uncertainty regarding the legal responsibility for deaths or injuries that result from participation in recreational activities and thereby to help assure the continued availability in this state of enterprises that offer recreational activities to the public.
- (2) Definitions. In this section:
 - (a) "Agricultural tourism activity" means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.
 - (b) "Recreational activity" means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" does not include participating in an alpine sport at a ski area, as those terms are defined in s. 167.33, but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling that is not biking, as defined in s. 167.33 (1) (ar), horseback riding, horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, recreational aviation, as defined in s. 895.52 (1) (hm), ballooning, curling, throwing darts, hang gliding, hiking, sleigh riding, snowmobiling, skating, participation in water sports, weight and fitness training, sight-



seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, participating in an agricultural tourism activity, sport shooting, and participating in an alpine sport outside a ski area, as those terms are defined in s. 167.33, and any other sport, game or educational activity.

- (3) Appreciation of risk. A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities accepts the risks inherent in the recreational activity of which the ordinary prudent person is or should be aware. In a negligence action for recovery of damages for death, personal injury or property damage, conduct by a participant who accepts the risks under this subsection is contributory negligence, to which the comparative negligence provisions of s. 895.045 shall apply.
- (4) Responsibilities of participants.
- (a) A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities is responsible to do all of the following:
1. Act within the limits of his or her ability.
 2. Heed all warnings regarding participation in the recreational activity.
 3. Maintain control of his or her person and the equipment, devices or animals the person is using while participating in the recreational activity.
 4. Refrain from acting in any manner that may cause or contribute to the death or injury to himself or herself or to other persons while participating in the recreational activity.
- (b) A violation of this subsection constitutes negligence. The comparative negligence provisions of s. 895.045 apply to negligence under this subsection.
- (4m) Liability of contact sports participants.
- (a) A participant in a recreational activity that includes physical contact between persons in a sport involving amateur teams, including teams in recreational, municipal, high school and college leagues, may be liable for an injury inflicted on another participant during and as part of that sport in a tort action only if the participant who caused the injury acted recklessly or with intent to cause injury.
- (b) Unless the professional league establishes a clear policy with a different standard, a participant in an athletic activity that includes physical contact between persons in a sport involving professional teams in a professional league may be liable for an injury inflicted on another participant during and as part of that sport in a tort action only if the participant who caused the injury acted recklessly or with intent to cause injury.
- (5) Effect on related provisions. Nothing in this section affects the limitation of property owners' liability under s. 895.52 or the limitation of school districts' liability, of school boards' liability, and of liability of governing bodies of charter schools under s. 895.523.

History: 1987 a. 377; 1995 a. 223, 447; 1997 a. 242; 2005 a. 155; 2011 a. 162, 199, 208; 2013 a. 165, 269, 318; 2015 a. 168, 195.

NOTE: 1987 Wis. Act 377 contains a prefatory note explaining the act.

This section codifies common law. It does not impose a greater duty of care on individuals than exists at common law. *Rockweit v. Senecal*, 197 Wis. 2d 409, 541 N.W.2d 742 (1995), 93-1130.

Sub. (3) does not mean that all who ski are negligent under all circumstances. Subs. (3) and (4) when read together impose an obligation of ordinary care on a skier to avoid foreseeable harms, including adherence to the conditions enumerated in sub. (4). *Ansani v. Cascade Mountain, Inc.*, 223 Wis. 2d 39, 588 N.W.2d 321 (Ct. App. 1998), 97-3514.

Cheerleaders are immune from negligence actions because they participate in a recreational activity that includes physical contact between persons in a sport involving amateur teams. Cheerleading is a sport because a sport is an activity involving physical exertion and skill that is governed by a set of rules or customs. Cheerleaders are on amateur teams because a team is a group organized to work together and cheerleaders are a group dedicated to leading fan participation and taking part in competitions. Cheerleading involves a significant amount of contact among the participants that at times can produce a forceful interaction between the cheerleaders when one person is tossed high into the air and then caught by those same tossers. *Noffke v. Bakke*, 2009 WI 10, 315 Wis. 2d 350, 760 N.W.2d 156, 06-1886.

The Exculpatory Contract and Public Policy. *Anzivino*. 102 MLR 747 (2019).

Go Team! Wisconsin's Latest Recreational Immunity Controversy. *Condon*. Wis. Law. June 2009.