

- SUBJECT:** Limited liability for landowners who allow radio-control flying
- COMMITTEE:** Civil Practices — favorable, with amendment
- VOTE:** 7 ayes — B. Cook, Strama, Madden, Miller, Raymond, Talton, Woolley
0 nays
2 absent — P. King, Martinez Fischer
- WITNESSES:** For — Keith Stretcher, city of Midland; (*Registered, but did not testify:*
Daniel Gonzalez, Texas Association of Realtors)

Against — None

On — Scott Ozmun, Texas Trial Lawyers Association
- BACKGROUND:** Civil Practice and Remedies Code, sec. 75.002(c) limits the liability of a landowner, lessee, or occupant for permitted or invited recreational users of their land. A landowner who invites or allows recreational use of his or her land neither assures the premises are safe for that purpose, nor owes a greater degree of care than is owed to a trespasser, nor assumes responsibility for any injury resulting from that use. Sec. 75.002(d) does not limit liability for a landowner who acts with gross negligence, with malicious intent, or in bad faith.

Recreational activities are defined in sec. 75.001 as: hunting; fishing; swimming; boating; camping; picnicking; hiking; pleasure driving; nature study (including bird watching); cave exploration; waterskiing and other water sports; bicycling; mountain biking; disc golf; walking dogs on- or off-leash; and any other activity associated with enjoying nature or the outdoors.
- DIGEST:** HB 1183, as amended, would add radio-control flying and related activities to the list of recreational activities in sec. 75.001(3). The limited liability given to an owner, lessee, or occupant who allowed radio-control flying on the property would not extend to an injury caused by radio-control flying that occurred outside the boundaries of the property.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007, and would apply only to a cause of action that originated on or after that date.

**SUPPORTERS
SAY:**

HB 1183 would limit the liability of landowners who provide safe locations for radio-control aircraft enthusiasts to practice their hobby. Radio-control flying is a popular and worthwhile activity. When model aircraft flying groups stage tournaments and events, they often donate all profits for to charitable organizations within the community.

Radio-control flying is not a dangerous activity. The Academy of Model Aeronautics provides its members with 2,500 sanctioned events annually, and each event abides by strict safety code standards. Of the roughly 400 claims reported over the last several years to the academy, only 10 or 12 involve serious injuries, and only a few tragic injuries account for the majority of the total amount paid out. In addition, bystanders and spectators are rarely injured by this activity. Most of the insurance claims paid by the Academy of Model Aeronautics involve model aircraft injuries to radio-control aircraft operators or members of their families. The committee amendment to HB 1183 would address any concerns regarding the liability of a landowner for any model aircraft-related injury that occurred off the property where the sanctioned flying took place.

**OPPONENTS
SAY:**

Radio-controlled flying is too dangerous to include in a limited liability statute. Unlike such activities as hiking and fishing, which easily can be contained to a given piece of property, flying radio-controlled airplanes can pose a threat to others, including people off the property where the flying is supposed to take place. Some of these model planes are surprisingly large and fast, and several people may be required to control them. A number of conditions, including wind and inexperienced operators, can lead to dangerous crashes on or off the land where the flying is permitted. As evidence of this, the Academy of Model Aeronautics, which provides insurance to members, has paid out more than \$4 million since 1999 to settle injury claims.

**OTHER
OPPONENTS
SAY:**

HB 1183 should be further amended to limit the liability of government entities that wish to allow radio-control flying on government land. For example, residents of Midland have expressed an interest in using municipal land to host model aircraft events. In 2005, the 79th Legislature limited the liability of government landowners to permit soap box derby

use, and the House has passed a bill this session (HB 1560 by Callegari) that would limit liability for paintball activities on government land. Government entities that wish to provide land for radio-control flying should receive the same protection.

NOTES:

The committee amendment would add that the bill would not limit the landowner's liability for injuries occurring outside the boundaries of the property where radio-control flying was permitted.