

BILL ANALYSIS

Senate Research Center
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H.B. 262
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Community gardens are tracts of land that are divided into smaller garden plots and gardened by local residents, and the popularity of these gardens has grown in recent years. Many landowners, lessees, or occupants of land that is undeveloped have been receptive to groups setting up community gardens on their property but sometimes withdraw their support because of the potential for lawsuits arising from community gardening activities.

H.B. 262 addresses this issue by establishing limited immunity from liability for a landowner, occupant, or lessee who allows a person to enter their property for a community garden purpose. This would not extend to any wanton or wilful act of negligence on the part of the landowner, occupant, or lessee.

H.B. 262 amends current law relating to liability of an owner, lessee, or occupant of land that allows land to be used as a community garden.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 75, Civil Practice and Remedies Code, by adding Section 75.0025, as follows:

Sec. 75.0025. LIMITED LIABILITY OF PERSONS ALLOWING CERTAIN USES OF LAND. (a) Defines "community garden."

(b) Provides that an owner, lessee, or occupant of land that gives permission to another person to enter and use the land as a community garden does not by giving that permission:

(1) ensure that the premises are safe; or

(2) assume responsibility or incur any liability for:

(A) damages arising from or related to any bodily or other personal injury to or death of any person who enters the premises for a purpose related to a community garden;

(B) property damage sustained by any person who enters the premises for a purpose related to a community garden; or

(C) an act of a third party that occurs on the premises.

(c) Provides that the doctrine of attractive nuisance does not apply to a claim that is subject to this section.

(d) Provides that this section does not limit the liability of an owner, lessee, or occupant of land for an injury caused by wilful or wanton acts or gross negligence by the owner, lessee, or occupant.

(e) Requires an owner, lessee, or occupant of land that allows the use of the premises as a community garden to post and maintain a clearly readable sign in a clearly visible location on or near the premises. Requires that the sign contain the warning language set forth in this subsection.

SECTION 2. Amends Section 75.003(b), Civil Practice and Remedies Code, as follows:

(b) Provides that this chapter does not affect the doctrine of attractive nuisance, except:

(1) as provided by Section 75.0022(g) (relating to the doctrine of attractive nuisance) or 75.0025(c); and

(2) the doctrine of attractive nuisance may not be the basis for liability of an owner, lessee, or occupant of agricultural land for any injury to a trespasser over the age of 16 years.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.