

**Introduced by Senator Fuller**

February 19, 2014

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An act to amend Section 846 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1072, as amended, Fuller. Real property: duty of care: recreational purposes: aviation activities.

Existing law provides that an owner of any estate or interest in real property owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, with certain exceptions. Existing law defines "recreational purpose" for purposes of this law to mean certain activities, including among others, hang gliding.

This bill would expand the definition of "recreational purpose" to include ~~other aviation activities~~: *private noncommercial aviation activities*.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 846 of the Civil Code is amended to read:
- 2 846. An owner of any estate or any other interest in real
- 3 property, whether possessory or nonpossessory, owes no duty of
- 4 care to keep the premises safe for entry or use by others for any

1 recreational purpose or to give any warning of hazardous  
2 conditions, uses of, structures, or activities on those premises to  
3 persons entering for a recreational purpose, except as provided in  
4 this section.

5 A “recreational purpose,” as used in this section, includes  
6 activities such as fishing, hunting, camping, water sports, hiking,  
7 spelunking, sport parachuting, riding, including animal riding,  
8 snowmobiling, and all other types of vehicular riding, rock  
9 collecting, sightseeing, picnicking, nature study, nature contacting,  
10 recreational gardening, gleaning, hang gliding, ~~other aviation~~  
11 ~~activities~~, *private noncommercial aviation activities*, winter sports,  
12 and viewing or enjoying historical, archaeological, scenic, natural,  
13 or scientific sites.

14 An owner of any estate or any other interest in real property,  
15 whether possessory or nonpossessory, who gives permission to  
16 another for entry or use for the above purpose upon the premises  
17 does not thereby (a) extend any assurance that the premises are  
18 safe for that purpose, or (b) constitute the person to whom  
19 permission has been granted the legal status of an invitee or  
20 licensee to whom a duty of care is owed, or (c) assume  
21 responsibility for or incur liability for any injury to person or  
22 property caused by any act of the person to whom permission has  
23 been granted except as provided in this section.

24 This section does not limit the liability which otherwise exists  
25 (a) for willful or malicious failure to guard or warn against a  
26 dangerous condition, use, structure or activity; or (b) for injury  
27 suffered in any case where permission to enter for the above  
28 purpose was granted for a consideration other than the  
29 consideration, if any, paid to said landowner by the state, or where  
30 consideration has been received from others for the same purpose;  
31 or (c) to any persons who are expressly invited rather than merely  
32 permitted to come upon the premises by the landowner.

33 Nothing in this section creates a duty of care or ground of  
34 liability for injury to person or property.