



**Hundredth Legislature - First Session - 2007**  
**Revised Committee Statement**  
**LB 564**

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**Hearing Date:** February 14, 2007

**Committee On:** Judiciary

**Introducer(s):** (Friend)

**Title:** Change the Recreational Liability Act

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

6	Yes	Sen. Ashford, Sen. Lathrop, Sen. McDonald, Sen. McGill, Sen. Pedersen, Sen. Pirsch
1	No	Sen. Chambers
	Present, not voting	
1	Absent	Sen. Schimek

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**Proponents:**

Sen. Mike Friend  
Paul Kratz  
Wes Sheets  
Sally Danekas  
Jo Dee Adeling  
Corey Kenter  
Paul Wiebelhaus  
Lynn Johnson  
Glenn Johnson  
John Bonaiuto  
Jason Albers  
John Goc  
Peggy Neemann  
Jon Edwards  
Chris Dibbern  
Lynn Rex  
Joel Pedersen  
Maren Chaloupka

**Representing:**

Introducer  
City of Omaha  
NE Division, Izaak Walton League  
Self  
NE League of Municipalities  
Self  
Self  
City of Lincoln  
NE Association of Resource District  
NE Association of School Boards  
Great Plains Trail Networks  
NE League of Municipalities  
Friends of Dog Parks  
NE Association of County Officials  
NE Power Association  
NE League of Municipalities  
University of Nebraska  
Self

**Opponents:**  
Robert Moodie  
Joseph Vacca

**Representing:**  
NE Association  
Self

**Neutral:**  
Rich Bringelsen

**Representing:**  
Self

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**Summary of purpose and/or changes:**

**Background on the Recreational Liability Act**

Due to the recent Nebraska Supreme Court case, *Bronsen v. Dawes County*, S-04-237, 272 Neb. 320 (September 29, 2006), government entities that had enjoyed liability protection under the Recreational Liability Act (N.R.S. §§37-729 to 37-730 (Reissue 2004)) for the last 25 years have been stripped of the protection of the Act. In *Bronsen*, the Supreme Court ruled that a woman who stepped in a hole and broke her ankle at Fur Trade Days in Dawes County could sue the county for damages. The Court opined that the original legislative intent of the Act was to apply only to private landowners and not government entities. Without the protection of the Act, government entities must meet the standard of reasonable care to avoid negligence lawsuits.

Legislative Bill 564 amends N.R.S. §§37-729, 37-730, 37-734, and 37-735 to apply the name Recreational Liability Act (RLA) and to change the provisions. The bill restores the protection taken away under *Bronsen* to the state, state agencies and political subdivisions. The owner of land used for recreational purposes owes no duty of care to keep the premises safe or to provide danger warnings for those entering or using the land for recreational purposes. The protection provided by the PLRA does not apply in cases of willful or malicious failure to guard or warn against danger. Furthermore, the PLRA does not protect owners of public land used for recreational purposes when the owner charges people to enter and use the land.

**Explanation of amendments, if any:**

COMMITTEE AMENDMENT

The committee amendment to LB 546, Am 879, replaces the green copy and makes the following changes to the bill as introduced:

Rather than reinstating protection for public entities under the Recreational liability act which was removed by the *Bronsen* decision, the bill amends the State and Political Subdivision Tort Claims Acts to provide an exception to liability for claims relating to recreational activities. The amendment specifically creates the following 3 exemptions to liability of the state or political subdivision for claims relating to recreational activities for which no fee is charged:

1. Claims resulting from the inherent risk of the activity;
2. Claims arising out of a spot or localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or

constructive notice of the defect. Constructive notice is presumed only if there has been gross negligence in the failure to inspect or discover the defect; and

3. Claims arising out of the design of a skate park or BMX park that was constructed in accordance with generally recognized standards in existence at the time the facility was constructed.

The amendment defines fee to mean a fee paid to participate in or be a spectator at a recreational activity, and includes fees paid to a third party only to the extent that the state or political subdivision retains control of the premises or activity. Fee does not include a charge for parking or vehicle entry. Lastly, the committee amendment provides that claims arising out of the failure to inspect or the negligent inspection of property used for recreational activities shall be handled under the new exemption created by this bill rather than the existing sections relating to inspection claims in the respective State and Political Subdivision Tort Claims Acts.

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**Senator Brad Ashford, Chairperson**