

THE OKLAHOMAN

Businesses not liable if customers injured on their properties during storms

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Q&A with Jeffrey A. Curran

Q: Spring always brings a potential for severe weather in Oklahoma. Can a business be held liable if a customer is injured on its property during a storm?

A: The Oklahoma Legislature specifically addressed this issue in 2012. Oklahoma law says an entity or individual “shall not be liable for any civil damages to any person” who may be sheltering at their location during a storm. The statute further says this immunity applies so long as “the entity or individual was acting in good faith and the damage or injury wasn’t caused by the willful or wanton negligence or misconduct of the entity or individual.” The statute doesn’t define “good faith” or “willful or wanton negligence or misconduct.” Frankly, it’s not clear exactly what kind of actions would constitute such classifications of behavior. What is clear is that the Legislature intended that people and businesses who offer shelter in storms be protected in doing so, even if someone who sought shelter there is ultimately hurt after talking shelter in those buildings.

Q: What types of places are covered by the statute?

A: The law uses the phrase “safe place,” which it defines as “any property, dwelling, shelter or other structure that can be reasonably considered protection from severe weather.” The statute says “severe weather” includes but isn’t limited to “tornadoes, high winds and floods.” Again, the emphasis is on reasonableness here. If, for example, the building in question is a plastic storage shed, then no one likely would reasonably think such a structure could be considered a shelter from a violent tornado. But, keep in mind that the person seeking shelter in such a shed would be held to that same standard of reasonableness, so likely no liability would exist on the part of the shed owner toward someone who sought shelter there.

Q: Does this statute apply to only businesses?

A: The statute applies to “any entity or individual.” While it doesn’t define these terms, it is reasonable to argue that, for the purposes of this statute, an “entity” could include a business, nonprofit, church or government location. It is also reasonable that a person at his/her private residence would qualify as an “individual.” The broad drafting of the statute seems to have been done on purpose so as to include as many interpretations as possible as to what “entities” are protected.