



RIGHT TO USE STATE LANDS ACT

Summary: This bill establishes that state public lands are presumptively open to public use under a multiple use framework. Agencies may restrict use only with clear legal authority and clear and convincing evidence that a specific activity would cause material harm and that the restriction is the least restrictive means available. Emergency restrictions are narrowly limited and all enforceable restrictions must be publicly posted.

Section 1. Purpose

- (a) State public lands are held in trust for the people of [State] and exist to serve human flourishing through recreation, access, education, and production.
- (b) The Federal Land Policy and Management Act of 1976 (FLPMA) declares a policy of multiple use and sustained yield for federal public lands; the state adopts a congruent policy for state public lands and seeks cooperative alignment with federal managers.
- (c) Restrictions on public use should be the least restrictive means necessary to prevent material, demonstrable harm to persons, property, or legally protected resource values, supported by clear and convincing evidence.

Section 2. Applicability

- (a) This Act shall apply to all state public lands.

Section 3. Standard

- (a) State public lands shall be presumptively open to use.
- (b) Agencies shall respect and shall not abridge rights of speech, assembly, petition, and free exercise on state public lands. Any time, place, and manner rule must be content neutral, narrowly tailored, and leave open ample alternative channels of communication.



- (c) No permit or fee shall be charged for activities involving fewer than [x] persons. Event permits may only rely on objective, content neutral criteria.

Section 4. Restrictions

- (a) An agency may impose a restriction on the use of public lands only if it:

(1) cites clear legal authority; and

(A) shows by clear and convincing evidence that:

(i) a specific use causes or is likely to cause material, demonstrable harm, and

(ii) the restriction is the least restrictive means to avert that harm, considering alternatives, including but not limited to education, seasonal limits, route engineering, and enforcement of existing restrictions.

- (b) A restriction on the use of public lands is not enforceable unless posted on site and on the official website of the agency responsible for managing those public lands.

Section 5. Emergencies

- (a) Emergency rules may be issued without prior notice only to address unforeseen, time critical threats to life, property, or defined resource values and expire after [x] days, renewable once for [x] days.

Want to learn more about this model policy in your state?

Contact Pacific Legal Foundation.

LegalPolicy@PacificLegal.org | PacificLegal.org/legislation