

## ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

### ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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**Landowners' Liability Act**

Did you know that Victor Schwartz--a lawyer who represents companies in product litigation--was the corporate co-chair in 2011?

### Summary

The Landowners' Liability Act encourages landowners to make land and water areas available to the public for educational and recreational purposes by limiting the owners liability toward persons entering thereon for such purposes. The Act provides that owners of land may be compensated for expenditures incurred in defense against frivolous or purposeless suits arising under this Act.

### Model Legislation

{Title, enacting clause, etc.}

**Section 1. {Title.}** This Act shall be known and may be cited as the Landowners Liability Act.

**Section 2. {Definitions.}** In this Act, the following words have the meanings indicated:

(A) "Charge" means price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for invitation or permission to go upon land, except as excluded herein.

(B) "Educational purpose" means any activity undertaken as part of a formal or informal educational program, and viewing historical, natural, archeological, or scientific sights.

(C) "Land" means all real property, land and water, and all structures, fixtures, equipment, and machinery thereon.

(D) "Owner" means any individual, legal entity, or governmental entity and any employee or agent thereof, that has any fee, security, leasehold or possession, interest in land, or in control of the premises.

(E) "Recreational purpose" means any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or pleasure.

**Section 3. {Exclusions.}** As used in this Act, the word "charge" shall not be taken to mean:

(A) Unless otherwise agreed in writing, any lease, dedication license, or easement, or the proceeds thereof, by an owner of land to a nonprofit organization or governmental entity for educational or recreational purposes;

(B) Unless otherwise agreed in writing, any action taken by a person, legal entity, nonprofit organization, or governmental entity, whether or not sanctioned or solicited by the owner, the purpose of which is to improve access to land for educational or recreational purposes or warning or removal of hazards on land to educational or to recreational purposes;

(C) Unless otherwise agreed to in writing or otherwise provided in the tax code, any property tax abatement or relief received by the owner from the state or local taxing authority in exchange for the owner's agreement to open the land for educational or recreational purposes.

**Section 4. {Duty of care of landowner.}** Except as specifically recognized by or provided in this Act, an owner of land owes no duty of care to keep the premises safe for entry or use by others for educational or recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

**Section 5. {Limitation of liability.}** Except as specifically provided in this Act, an owner of land who either directly or indirectly invites or permits without charge any person to use such land for educational or recreational purposes does not thereby:

(A) Extend any assurance that the premises are safe for any purpose;

(B) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed;

(C) Assume responsibility for or incur liability for any person or property caused by an act or omission of such persons; or

(D) Assume responsibility for or incur liability for injury to such person or property caused

by any natural or artificial condition, structure, or personal property on the land.

**Section 6. {Warning signs.}** Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

**Section 7. {Willful or malicious conduct.}** Nothing in this Act limits in any way any liability which otherwise exists:

(A) For willful or malicious but not mere negligent failure to guard or warn against an ultrahazardous condition, use, structure, or activity known to such owner to be dangerous; or

(B) For injury suffered on any case where the owner of land charges the person or persons who enter or go on the land for the educational or recreational use thereof, except as provided herein.

**Section 8. {Construction.}** Nothing in this Act shall be construed to:

(A) Create a duty of care or ground of liability for injury to persons or property; or

(B) Relieve any person using the land of another for educational or recreational purposes from any obligation which he may have in the absence of this Act to exercise care in the person's use or the legal consequences of failure to employ such care.

**Section 9. {Complaint-form.}** A cause of action, the defense for which may lie within this Act, shall, in one of its counts, state that the cause of action is not within this Act.

**Section 10. {Answer-form.}** An answer to a cause of action, one defense for which lies within this Act, shall, in one of its counts, state that the cause of action is within this Act.

**Section 11. {Required joiner.}**

(A) Except as otherwise provided by law, any cause of action, the defense for which may lie within this Act, shall join as defendants all those who may be considered as an "owner," under this Act, of the land in which the cause of action arose.

(B) Should the plaintiff not join all such "owners," the court, upon motion or on its own initiative, shall:

(1) dismiss the action; or

(2) join the other "owners" and assess against the plaintiff any costs associated with doing so.

**Section 12. {Presumptions and burdens.}**

(A) Any action for which it has been affirmatively pled that a defense lies within this Act shall be so presumed, such presumption not to be overcome except upon clear and convincing evidence.

(B) The burden upon clear and convincing evidence that a cause of action does not lie within this Act shall be upon the plaintiff.

(C) The possession by an owner of a policy of insurance, upon the land on which the cause of action arose, protecting the owner from injury to persons or persons engaging in educational or recreational purposes, shall not be of any indication whatever that the defense lies outside of this Act, and may not be introduced as evidence of control over the land.

**Section 13. {Dismissal, award of costs.}**

(A) The court may at any time during the course of the litigation, upon motion or its own initiative, find that the subject matter of the action lies within this Act, and there being no cause to continue, dismiss the cause of action.

(B) If a suit is so dismissed, the court shall also make a timely finding whether the suit was for frivolous, malicious, willful or groundless reasons or purposes. If such finding is made, the court shall:

(1) award the defendant reasonable costs associated with the litigation from the plaintiff; and

(2) charge the plaintiff or his attorney with such other penalty as prescribed in the laws of this state.

**Section 14. {Severability clause.}**

**Section 15. {Repealer clause.}**

**Section 16. {Effective date.}**

Were your laws  
repealed?

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECexposed.org](http://www.ALECexposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.

### Center for Media and Democracy's quick summary

This bill gives landowners immunity from liability to persons injured on their property, if the persons entered the land for educational or recreational purposes. It provides that landowners have no duty whatsoever to maintain the safety of their property or notify others that certain areas may be dangerous.