

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1452
(Representatives Thoreson, Boehning, Koppelman, Schatz)
(Senator Krebsbach)

AN ACT to provide landowner immunity for injuries to trespassers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Duty of care to trespasser.

A possessor of land, including an owner, lessee, or other occupant, does not owe a duty of care to a trespasser and is not subject to liability for any injury to a trespasser.

SECTION 2.

Exceptions to land possessor immunity.

1. a. Notwithstanding section 1 of this Act, a possessor of land may be subject to liability for physical injury or death to a trespasser in the following situations:
 - (1) A land possessor has a duty not to harm the trespasser in a willful and wanton manner, except as permitted under section 12.1-05-06, 12.1-05-07, 12.1-05-07.1, or 12.1-05-07.2;
 - (2) A land possessor that knows of the trespasser's presence on the premises has a duty to exercise ordinary care to avoid injuring that trespasser; and
 - (3) A land possessor may be subject to liability for physical injury or death to a child trespasser resulting from an artificial condition on the land if:
 - (a) The possessor knew or had reason to know that children were likely to trespass at the location of the condition;
 - (b) The condition is one the possessor knew or reasonably should have known involved an unreasonable risk of death or serious bodily harm to children;
 - (c) The injured child did not discover the condition or realize the risk involved in the condition or coming within the area made dangerous by it;
 - (d) The utility to the possessor of maintaining the condition and the burden of eliminating the danger were slight as compared with the risk to the child involved; and
 - (e) The land possessor failed to exercise reasonable care to eliminate the danger or otherwise protect the injured child.
- b. For purposes of this subsection, artificial condition means a structure or other manmade condition and does not include living animals.
2. This section does not affect chapter 53-08.
3. This section does not create or increase the liability of any person or entity.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1452.

House Vote: Yeas 85 Nays 5 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State