

HOUSE BILL NO. 1452

Introduced by

Representatives Thoreson, Boehning, Koppelman, Schatz

Senator Krebsbach

1 A BILL for an Act to provide landowner immunity for injuries to trespassers.

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1.**

4 **Duty of care to trespasser.**

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

7 **SECTION 2.**

8 **Exceptions to land possessor immunity.**

9 1. a. Notwithstanding section 1 of this Act, a possessor of land may be subject to
10 liability for physical injury or death to a trespasser in the following situations:

11 ~~a.~~ (1) A land possessor has a duty not to harm the trespasser in a willful and
12 wanton manner, except as permitted under section 12.1-05-06, 12.1-05-07,
13 12.1-05-07.1, or 12.1-05-07.2;

14 ~~b.~~ (2) A land possessor that knows of the trespasser's presence on the premises
15 has a duty to exercise ordinary care to avoid injuring that trespasser; and

16 ~~c.~~ (3) A land possessor may be subject to liability for physical injury or death to a
17 child trespasser resulting from an artificial condition on the land if:

18 ~~(1)(a)~~ The possessor knew or had reason to know that children were likely
19 to trespass at the location of the condition;

20 ~~(2)(b)~~ The condition is one the possessor knew or reasonably should have
21 known involved an unreasonable risk of death or serious bodily harm
22 to children;

1 ~~(3)~~(c) The injured child did not discover the condition or realize the risk
2 involved in the condition or coming within the area made dangerous
3 by it;

4 ~~(4)~~(d) The utility to the possessor of maintaining the condition and the
5 burden of eliminating the danger were slight as compared with the risk
6 to the child involved; and

7 ~~(5)~~(e) The land possessor failed to exercise reasonable care to eliminate the
8 danger or otherwise protect the injured child.

9 b. For purposes of this subsection, artificial condition means a structure or other
10 manmade condition and does not include living animals.

11 2. This section does not affect chapter 53-08.

12 3. This section does not create or increase the liability of any person or entity.