

CHAPTER 32-47
LANDOWNER IMMUNITY FOR TRESPASSER INJURY

32-47-01. 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.

32-47-02. Exceptions to land possessor immunity.

1. a. Notwithstanding section 32-47-01, 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.