

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

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

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

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

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

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

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

- 1 (4) The utility to the possessor of maintaining the condition and the burden of
2 eliminating the danger were slight as compared with the risk to the child
3 involved; and
- 4 (5) The land possessor failed to exercise reasonable care to eliminate the
5 danger or otherwise protect the injured child.
- 6 2. This section does not affect chapter 53-08.
- 7 3. This section does not create or increase the liability of any person or entity.