

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 119*

Short Title: Landowner Protection.

(Public)

Sponsors: Representatives Wainwright; and Buchanan.

Referred to: Judiciary I.

February 7, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE LIABILITY OF LANDOWNERS TO MEMBERS OF THE
3 PUBLIC ENTERING THE LAND FOR EDUCATIONAL AND RECREATIONAL
4 PURPOSES.

5 The General Assembly of North Carolina enacts:

6 Section 1. The General Statutes are amended by adding a new Chapter to read:

7 **CHAPTER 38A.**
8 **"LANDOWNER LIABILITY.**

9 **"§ 38A-1. Purpose.**

10 The purpose of this Chapter is to encourage owners of land to make land and water
11 areas available to the public for educational and recreational purposes by:

12 (1) Limiting the liability of the owner to persons entering the land for those
13 purposes;

14 (2) Ensuring that through making one's land available for educational and
15 recreational purposes, an owner need not be subjected to waste or a
16 financial burden.

17 **"§ 38A-2. Definitions.**

18 The following definitions shall apply throughout this Chapter, unless otherwise
19 specified:

- 1 (1) 'Charge' means a price or fee asked for services, entertainment,
2 recreation performed, or products offered for sale on land or in return
3 for an invitation or permission to enter upon land, except as otherwise
4 excluded in this Chapter.
- 5 (2) 'Educational purpose' means any activity undertaken as part of a formal
6 or informal educational program, and viewing historical, natural,
7 archaeological, or scientific sites.
- 8 (3) 'Land' means real property, land, and water, other than any real
9 property, land, and water that are appurtenant to a private residence.
- 10 (4) 'Owner' means any individual, legal entity, or governmental entity, and
11 any employee or agent, that has any fee or security.
- 12 (5) 'Recreational purpose' means any activity undertaken for recreation,
13 exercise, education, relaxation, refreshment, diversion, or pleasure.

14 **"§ 38A-3. Exclusions.**

15 For purposes of this act, the term 'charge' does not include:

- 16 (1) Unless otherwise agreed in writing, any lease, dedication, license, or
17 easement, or the proceeds thereof, by an owner of land to a nonprofit
18 organization or governmental entity for educational or recreational
19 purposes.
- 20 (2) Any action taken by a person, legal entity, nonprofit organization, or
21 governmental entity other than the owner, or any monetary contribution
22 made, in either event, whether or not sanctioned or solicited by the
23 owner, the purpose of which is to (i) improve access to land for
24 educational or recreational purposes; (ii) remedy damage to land caused
25 by educational or recreational use; or (iii) provide warning of hazards
26 on, or remove hazards from, land used for educational or recreational
27 purposes.
- 28 (3) Unless otherwise agreed in writing or otherwise provided by the State or
29 federal tax codes, any property tax abatement or relief received by the
30 owner from the State or local taxing authority in exchange for the
31 owner's agreement to open the land for educational or recreational
32 purposes.
- 33 (4) Unless otherwise agreed in writing, any contribution in kind, services,
34 or cash paid to reduce or offset costs and eliminate losses from
35 educational or recreational use.

36 **"§ 38A-4. Limitation of liability.**

37 Except as specifically recognized by or provided for in this act, an owner of land who
38 either directly or indirectly invites or permits without charge any person to use such land
39 for educational or recreational purposes owes the person the same duty of care that he
40 owes a trespasser."

41 Sec. 2. This act becomes effective October 1, 1995, and applies to all causes
42 of action arising after that date. This act shall expire September 30, 2000.