

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 171\*

Short Title: Landowner Protection Act.

(Public)

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Sponsors: Senators Foxx; McDaniel, Kincaid, Carrington, Blackmon, Clark, Ledbetter, Horton, McKoy, Simpson, Cochrane, Shaw, Sawyer, Forrester, Little, Davis, Webster, Carpenter, Hartsell, and Allran.

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Referred to: Judiciary I/Constitution.

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February 9, 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; and

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.**

1       The following definitions shall apply throughout this Chapter, unless otherwise  
2 specified:

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

15 **"§ 38A-3. Exclusions.**

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

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

37 **"§ 38A-4. Limitation of liability.**

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

42       Sec. 2. This act becomes effective October 1, 1995, and applies to all causes  
43 of action arising after that date. All insurance policies providing liability coverage for

- 1 land and water areas covered by Section 1 of this act shall be rerated on the anniversary
- 2 dates of the policies next following the effective date of this act, to reflect the added
- 3 limitation of liability contained in G.S. 38A-4.