Chapter 38A.

Landowner Liability.

§ 38A-1. Purpose.

The purpose of this Chapter is to encourage owners of land to make land and water areas available to the public at no cost for educational and recreational purposes by limiting the liability of the owner to persons entering the land for those purposes. (1995, c. 308, s. 1.)

§ 38A-2. Definitions.

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

 (1) "Charge" means a price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for an invitation or permission to enter upon land, except as otherwise excluded in this Chapter.

 (2) "Educational purpose" means any activity undertaken as part of a formal or informal educational program, and viewing historical, natural, archaeological, or scientific sites.

 (3) "Land" means real property, land, and water, but does not mean a dwelling and the property immediately adjacent to and surrounding such dwelling that is generally used for activities associated with occupancy of the dwelling as a living space.

 (4) "Owner" means any individual or nongovernmental legal entity that has any fee, leasehold interest, or legal possession, and any employee or agent of such individual or nongovernmental legal entity.

 (5) "Recreational purpose" means any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or pleasure or sport, including equestrian recreation as defined in G.S. 99E-1. (1995, c. 308, s. 1; 2013-265, s. 3.1.)

§ 38A-3. Exclusions.

For purposes of this Chapter, the term "charge" does not include:

 (1) Any contribution in kind, services or cash contributed by a person, legal entity, nonprofit organization, or governmental entity other than the owner, whether or not sanctioned or solicited by the owner, the purpose of which is to (i) remedy damage to land caused by educational or recreational use; (ii) provide warning of hazards on, or remove hazards from, land used for educational or recreational purposes; or (iii) pay expenses related to the use of land for a recreational or educational purpose.

 (2) Unless otherwise agreed in writing or otherwise provided by the State or federal tax codes, any property tax abatement or relief received by the owner from the State or local taxing authority in exchange for the owner's agreement to open the land for educational or recreational purposes.

 (3) Dues or fees charged by an individual, group, club, partnership, corporation, or governmental entity sponsoring the educational or recreational use when (i) the sponsor is operating as a nonprofit or in a nonprofit capacity and (ii) the dues or fees are used to pay expenses relating to the educational or recreational use or to raise funds to support the sponsor's mission. (1995, c. 308, s. 1; 2013-265, s. 3.4.)

§ 38A-4. Limitation of liability.

(a)   Except as specifically recognized by or provided for in this Chapter, an owner of land who either directly or indirectly invites or permits without charge any person to use such land for educational or recreational purposes owes the person the same duty of care that he owes a trespasser, except nothing in this Chapter shall be construed to limit or nullify the doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual hazards of which the owner has actual knowledge. This section does not apply to an owner who invites or permits any person to use land for a purpose for which the land is regularly used and for which a price or fee is usually charged even if it is not charged in that instance, or to an owner whose purpose in extending an invitation or granting permission is to promote a commercial enterprise.

(b)   Nothing in this section shall be construed to conflict with or render ineffectual a liability release, indemnification, assumption, or acknowledgment of risk agreement between the landowner and a person who uses the land for educational or recreational purposes. (1995, c. 308, s. 1; 2013-265, s. 3.5.)