

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 308
HOUSE BILL 127

AN ACT TO LIMIT THE LIABILITY OF LANDOWNERS TO MEMBERS OF THE
PUBLIC ENTERING THE LAND FOR EDUCATIONAL AND RECREATIONAL
PURPOSES.

The General Assembly of North Carolina enacts:

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

“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.

"§ 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.

"§ 38A-3. Exclusions.

For purposes of this act, 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; or (ii) provide warning of hazards on, or remove hazards from, land used for educational or recreational purposes.

- (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.

"§ 38A-4. Limitation of liability.

Except as specifically recognized by or provided for in this act, 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 act 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."

Sec. 2. Within 45 days after ratification of this act, the Department of Public Instruction shall notify, in writing, each local board of education of this act, including its application to school activities held on premises covered by this act and its effect on students, parents, teachers, and others participating in those activities on behalf of the school.

Sec. 3. Section 1 of this act becomes effective October 1, 1995, and applies to all causes of action arising after that date. The remainder of this act is effective upon ratification. All insurance policies providing liability coverage for land, as defined in G.S. 38A-2(3), covered by Section 1 of this act shall be rereated on the anniversary dates of the policies next following the effective date of Section 1 of this act, to reflect the added limitation of liability contained in G.S. 38A-4.

In the General Assembly read three times and ratified this the 20th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives