

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

2

HOUSE BILL 36*
Second Edition Engrossed 4/29/93

Short Title: Landowner Protection.

(Public)

Sponsors: Representatives James; J. Brown, Culp, Hayes, Lutz, McLawhorn, Mitchell, Moore, Russell, R. Thompson, Weatherly, P. Wilson, and Wright.

Referred to: Judiciary I.

February 3, 1993

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
7 read:

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

10 **"§ 38A-1. Purpose.**

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

- 13 (1) Limiting the liability of the owner to persons entering the land for
14 those purposes;
15 (2) Ensuring that through making one's land available for educational and
16 recreational purposes, an owner need not be subjected to waste or a
17 financial burden.

18 **"§ 38A-2. Definitions.**

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

- 21 (1) 'Charge' means a price or fee asked for services, entertainment,
22 recreation performed, or products offered for sale on land or in return

1 for an invitation or permission to enter upon land, except as otherwise
2 excluded in this Chapter.

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

6 (3) 'Land' means real property, land, and water, other than any real
7 property, land, and water that are appurtenant to a private residence.

8 (4) 'Owner' means any individual, legal entity, or governmental entity, and
9 any employee or agent, that has any fee or security.

10 (5) 'Recreational purpose' means any activity undertaken for recreation,
11 exercise, education, relaxation, refreshment, diversion, or pleasure.

12 **"§ 38A-3. Exclusions.**

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

14 (1) Unless otherwise agreed in writing, any lease, dedication, license, or
15 easement, or the proceeds thereof, by an owner of land to a nonprofit
16 organization or governmental entity for educational or recreational
17 purposes.

18 (2) Any action taken by a person, legal entity, nonprofit organization, or
19 governmental entity other than the owner, or any monetary
20 contribution made, in either event, whether or not sanctioned or
21 solicited by the owner, the purpose of which is to (i) improve access to
22 land for educational or recreational purposes; (ii) remedy damage to
23 land caused by educational or recreational use; or (iii) provide warning
24 of hazards on, or remove hazards from, land used for educational or
25 recreational purposes.

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

31 (4) Unless otherwise agreed in writing, any contribution in kind, services,
32 or cash paid to reduce or offset costs and eliminate losses from
33 educational or recreational use.

34 **"§ 38A-4. Limitation of liability.**

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

39 Sec. 2. This act becomes effective October 1, 1993, and applies to all causes
40 of action arising after that date. All insurance policies providing liability coverage for
41 land and water areas covered by Section 1 of this act shall be reredated on the anniversary
42 dates of the policies next following the effective date of this act, to reflect the added
43 limitation of liability contained in G.S. 38A-4.