

HOUSE BILL No. 2106

By Committee on Federal and State Affairs

1-26

1 AN ACT concerning trespass and liability; exceptions.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. This act shall be known and may be cited as the trespasser
5 responsibility act.

6 Sec. 2. (a) For the purposes of this act, "trespasser" means a person
7 who enters on the property of another without permission and without an
8 invitation, expressed or implied.

9 (b) A possessor of land, including an owner, lessee, or other
10 occupant, does not owe a duty of care to a trespasser and is not subject to
11 liability for any injury to a trespasser.

12 (c) Notwithstanding subsection (b), a possessor of land may be
13 subject to liability for physical injury or death to a trespasser if:

14 (1) The trespasser's physical injury or death was intentionally caused
15 by the possessor, except that a possessor may use reasonable force to
16 repel a trespasser that has entered the land or a building with the intent to
17 commit a crime.

18 (2) The trespasser was under the age of 17, the injury was resulting
19 from an artificial condition on the land and:

20 (A) The condition is one the possessor knew or reasonably should
21 have known involved an unreasonable risk of death or serious bodily
22 harm to such children;

23 (B) the injured child did not discover the condition or realize the risk
24 involved in the condition or of coming within the area made dangerous
25 by it;

26 (C) the utility to the possessor of maintaining the condition and the
27 burden of eliminating the danger were slight as compared with the risk to
28 the child involved; or

29 (D) the possessor failed to exercise reasonable care to eliminate the
30 danger or otherwise protect the injured child.

31 (3) The possessor knew, or from facts within the possessor's
32 knowledge should have known, that trespassers consistently intrude upon
33 a limited area of the possessor's land and:

34 (A) The trespasser's harm was caused by an artificial condition

1 created or maintained by the possessor, the possessor knew the condition
2 was likely to cause death or serious bodily injury to such a trespasser, the
3 condition was of such a nature that the possessor had reason to believe
4 that the trespasser would not discover it and the possessor failed to
5 exercise reasonable care to warn the trespasser of the condition and the
6 risk involved. Reasonable care to warn may include posting of signage
7 stating the danger of the condition, but will not necessarily include the
8 construction of fencing or other such barriers.

9 (d) The possessor shall not be deemed liable for: (1) Natural
10 conditions of the property such as cliffs, holes, caves, shifting or loose
11 sand or soil and any other natural land conditions; (2) natural situations
12 or conditions any reasonable person knew or should have known would
13 contribute to the danger such as ice, snow or rain; (3) dangerous
14 conditions that any reasonable person knew or should have known were
15 dangerous such as roofs, equipment, steps and other inherently dangerous
16 conditions; or unintentional failure of possessor to maintain or repair
17 building or parking lots such as lighting, holes or other natural
18 degradations of the property.

19 Sec. 3. The provisions of this act are declared to be severable and if
20 any provision, word, phrase or clause of the act or the application thereof
21 to any person shall be held invalid, such invalidity shall not affect the
22 validity of the remaining portions of this act.

23 Sec. 4. This act shall take effect and be in force from and after its
24 publication in the statute book.