COMMITTEE REPORT

April 9, 2014

**H. 4607**

Introduced by Reps. Hiott, Bedingfield, Vick, Long, D.C. Moss, Crosby, Norman, Wells, Rivers, Willis, Pitts, George, Bales, Allison, Forrester, Wood, Hixon, Erickson, Ballentine and Skelton

S. Printed 4/9/14--H.

Read the first time February 6, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4607) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 82 to Title 15 so as to establish the “Trespasser Responsibility Act” which provides a limitation, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Title 15 of the 1976 Code is amended by adding:

“CHAPTER 82

Trespasser Responsibility Act

Section 15‑82‑10. (A) As used in this chapter:

(1) ‘Possessor of land’ means the possessor of any fee, reversionary, or easement interest in real property, including an owner, lessee, or other lawful occupant;

(2) ‘Trespasser’ means a person who enters or remains on the land of another without permission, express or implied, or without legal right or privilege.

(B) A possessor of land owes no duty to a trespasser except to refrain from causing an intentional, reckless, wilful, or wanton injury.

(C) Notwithstanding subsection (B), a possessor of land is subject to liability for physical harm to children trespassing thereon caused by an artificial condition upon the land if:

(1) the place where the condition exists is one upon which the possessor knows or has reason to know that children are likely to trespass;

(2) the condition is one of which the possessor knows or has reason to know and which he realizes or should realize will involve an unreasonable risk of death or serious bodily harm to such children;

(3) the children, because of their youth or mental capacity, do not discover the condition or realize the risk involved in intermeddling with it or in coming within the area made dangerous by it;

(4) the utility to the possessor of maintaining the condition and the burden of eliminating the danger are slight as compared with the risk to children involved; and

(5) the possessor fails to exercise reasonable care to eliminate the danger or otherwise to protect the children.

(D) Notwithstanding subsection (B), a possessor of land is subject to liability for physical harm to any person who suffers injury or death while attempting to rescue a child from a danger created by an artificial condition on land if the possessor is also liable for injury to the child pursuant to subsection (C).

(E) This chapter does not affect any immunities from or defenses to civil liability established by another section of the South Carolina Code of Laws or available at common law to which a possessor of land may be entitled.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 82 TO TITLE 15 SO AS TO ESTABLISH THE “TRESPASSER RESPONSIBILITY ACT” WHICH PROVIDES A LIMITATION ON LIABILITY BY LAND POSSESSORS TO TRESPASSERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 15 of the 1976 Code is amended by adding:

“CHAPTER 82

Limitation on Liability of Land Possessors to Trespassers

Trespasser Responsibility Act

Section 15‑82‑10. (A) As used in this section, the term ‘possessor of land’ means the possessor of any fee, reversionary, or easement interest in real property, including an owner, lessee, or other lawful occupant.

(B) A possessor of land owes no duty to a trespasser except to refrain from causing a wilful or wanton injury.

(C) Nothing in this section shall affect the common law doctrine of attractive nuisance.

(D) This section does not affect any immunities from or defenses to civil liability established by another section of the South Carolina Code of Laws or available at common law to which a possessor of land may be entitled.”

SECTION 2. This act takes effect upon approval by the Governor.

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