

Part 3 Liability Relating to Trespassers

57-14-301 Owner liability to trespasser.

- (1) Except as provided in Subsection (2), with respect to a trespasser, an owner does not:
 - (a) make any representation or extend any assurance that the land is safe for any purpose;
 - (b) owe any duty of care to the trespasser;
 - (c) assume responsibility for or incur liability for any injury to, the death of, or damage to property of, a trespasser; or
 - (d) owe any duty to curtail the owner's use of the land.
- (2) Notwithstanding Subsection (1) and except as provided in Subsection (3), an owner may be subject to liability for serious physical injury or death to a trespasser if:
 - (a)
 - (i) the trespasser is a child;
 - (ii) the serious physical injury or death is caused by an artificial condition on the land;
 - (iii) the owner knows or reasonably should know that:
 - (A) the artificial condition exists;
 - (B) the artificial condition poses an unreasonable risk of serious physical injury or death to a child; and
 - (C) a child is likely to trespass at the location of the artificial condition;
 - (iv) the artificial condition is not of a type that a child, because of the child's youth, would discover exists or would not realize that the artificial condition poses a risk of serious physical injury or death; and
 - (v) the owner fails to take reasonable measures to eliminate, or to protect against serious physical injury or death from, the artificial condition;
 - (b)
 - (i) the serious physical injury or death:
 - (A) occurs on a limited area of the land that the owner knows, or reasonably should know, is constantly intruded upon by trespassers; and
 - (B) is caused by an activity conducted by the owner that poses a risk of serious physical injury or death to a trespasser; and
 - (ii) the owner fails to conduct the activity described in Subsection (2)(b)(i)(B) with reasonable care for a trespasser's safety.
- (3)
 - (a) An owner is not subject to liability for serious physical injury or death to a trespasser if the conduct of the owner that results in serious physical injury or death is permitted or justified under Title 76, Chapter 2, Part 4, Justification Excluding Criminal Responsibility, or any other provision of law.
 - (b) An owner is not subject to liability for serious physical injury or death to a trespasser under Subsection (2) if the burden on the owner to eliminate, or to protect against serious physical injury or death from, the artificial condition outweighs the risk of serious physical injury or death posed by the artificial condition.
 - (c) An owner is not subject to liability for serious physical injury or death to a trespasser under Subsection (2) if the serious injury or death is caused by an irrigation canal or ditch.
 - (d) A public transit district is not subject to liability for a serious physical injury or death to a trespasser under Subsection (2) if the serious injury or death is caused by a trespasser

entering into a fixed guideway, railroad right-of-way, or on transit facilities or premises in violation of Section 56-1-18.5 or Section 41-6a-1005.

(4) Nothing in this chapter shall impose liability on an owner except to the extent liability existed as of May 14, 2013.

Enacted by Chapter 212, 2013 General Session