

Senate Bill 125

By: Senators Stone of the 23rd and Gooch of the 51st

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 3 of Title 51 of the Official Code of Georgia Annotated,  
2 relating to general provisions regarding the liability of owners and occupiers of land, so as  
3 to codify the duty of a possessor of land to a trespasser against harm; to provide for related  
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 3 of Title 51 of the Official Code of Georgia Annotated, relating to  
8 general provisions regarding the liability of owners and occupiers of land, is amended by  
9 adding a new Code section to read as follows:

10 "51-3-3.

11 (a) A possessor of land, including an owner, lessee, or other occupant, owes no duty of  
12 care to a trespasser except to refrain from causing a willful or wanton injury, including by  
13 a trap or pitfall.

14 (b) Notwithstanding subsection (a) of this Code section, a possessor of land may be subject  
15 to liability for physical injury or death to a child trespasser caused by an artificial condition  
16 upon such land if:

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

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

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

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

26 (5) The possessor failed to exercise reasonable care to eliminate the danger or otherwise  
27 protect such children.

28 (c) This Code section shall not affect any immunities from or defenses to civil liability  
29 established by another provision of the Code or available at common law to which a  
30 possessor of land may be entitled."

31 **SECTION 2.**

32 All laws and parts of laws in conflict with this Act are repealed.