COMMITTEE REPORT

April 1, 2015

**H. 3266**

Introduced by Reps. Hiott, Bannister, Brannon, Erickson, Henderson, Collins, Sandifer, Corley, Tallon, Taylor, Thayer, Wells, Felder, Kirby, Hixon, Hodges, Riley, Ott, Goldfinch, Hardee, Gagnon, Pitts, Finlay, Southard, D.C. Moss, Chumley, Yow, Huggins, Kennedy, Rivers and White

S. Printed 4/1/15--S. [SEC 4/7/15 2:37 PM]

Read the first time February 10, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3266) 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, page 2 by striking line 16 and inserting:

/ land may be entitled.

(E) The provisions of this chapter do not affect any right, privilege, or provision of the South Carolina Tort Claims Act pursuant to Chapter 78, Title 15.” /

Renumber sections to conform.

Amend title to conform.

A. SHANE MASSEY for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

The Judicial Department anticipates minimal expenditure impact, if any, on the general fund. There is no impact on federal or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill limits a land owner’s civil liability to trespassers in certain circumstances. As this bill reduces the ability to bring a court action, the Judicial Department anticipates that it will have minimal impact, if any, on the general fund. There is no impact on federal or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**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, AND TO PROVIDE EXCEPTIONS.

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 terms:

(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 or without legal privilege.

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

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