

Senate Bill 125

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

**AS PASSED SENATE**

**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 lawful possessor of land to a trespasser against harm; to define a term;  
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **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) As used in this Code section, the term 'possessor of land' means the land owner,  
12 occupant of the land, or lessee of the land.

13 (b) A lawful possessor of land owes no duty of care to a trespasser except to refrain from  
14 causing a willful or wanton injury.

15 (c) Notwithstanding subsection (b) of this Code section, a lawful possessor of land may  
16 be subject to liability for death or serious bodily harm to a child trespasser caused by an  
17 artificial condition upon such land if:

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

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

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

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

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

30 (d) This Code section shall not affect any immunities from or defenses to civil liability to  
31 which a lawful possessor of land may be entitled."

32 **SECTION 2.**

33 All laws and parts of laws in conflict with this Act are repealed.