

House File 2367 - Introduced

HOUSE FILE 2367
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 614)

A BILL FOR

1 An Act relating to the liability of an owner, lessee, or
2 occupant of land for injury to a trespasser on the land and
3 including an applicability provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 462.1 Liability of owner, lessee,
2 or occupant of land — trespassers.

3 1. Except as provided in subsection 2, an owner, lessee, or
4 occupant of land owes no duty of care to a trespasser on the
5 land and is not liable for any injury to a trespasser on the
6 land, except that an owner, lessee, or occupant owes a duty
7 to refrain from injuring a trespasser willfully, wantonly,
8 or through gross negligence. For purposes of this section,
9 "trespasser" means a person who enters the land of an owner,
10 lessee, or occupant without any legal right, express or
11 implied.

12 2. An owner, lessee, or occupant of land may be liable for
13 injury to a child who is less than sixteen years of age caused
14 by a highly dangerous artificial condition on the land if all
15 of the following conditions exist:

16 a. The owner, lessee, or occupant knew or reasonably should
17 have known that such children were likely to trespass at the
18 location of the artificial condition.

19 b. The artificial condition is one that the owner, lessee,
20 or occupant knew or reasonably should have known existed, and
21 that the owner, lessee, or occupant realized or should have
22 realized involved an unreasonable risk of death or serious
23 bodily harm to such children.

24 c. The injured child did not discover the artificial
25 condition or realize the risk involved in the condition or the
26 risk of injury in the area made dangerous by the condition.

27 d. The utility to the owner, lessee, or occupant of
28 maintaining the artificial condition and the burden of
29 eliminating the danger were slight as compared with the risk
30 to the child involved.

31 e. The owner, lessee, or occupant failed to exercise
32 reasonable care to eliminate the danger or otherwise protect
33 the child.

34 3. Notwithstanding the application of subsection 2 to a
35 child who is less than sixteen years of age, a child who is

1 fourteen years of age or older is presumed to appreciate the
2 risk of highly dangerous artificial conditions on land, but
3 this presumption may be overcome if the claimant proves that
4 the child, at the time of the injury, did not have the ability
5 to appreciate the risk.

6 4. An owner, lessee, or occupant of land whose actions are
7 justified under section 704.3, 704.4, or 704.5, shall not be
8 liable to a trespasser for damages arising from those actions.

9 5. This section does not affect chapter 461C or create or
10 increase the liability of any person.

11 Sec. 2. APPLICABILITY. This Act applies to all causes of
12 actions accrued on or after the effective date of this Act.

13 EXPLANATION

14 This bill relates to liability of an owner, lessee, or
15 occupant of land for injury to a trespasser.

16 The bill provides that, except as otherwise provided in
17 the bill, an owner, lessee, or occupant of land owes no duty
18 of care to a trespasser on the land and is not liable for any
19 injury to a trespasser on the land, except that an owner,
20 lessee, or occupant owes a duty to refrain from injuring a
21 trespasser willfully, wantonly, or through gross negligence.
22 For purposes of the bill, "trespasser" means a person who
23 enters the land of an owner, lessee, or occupant without any
24 legal right, express or implied.

25 The bill provides that an owner, lessee, or occupant of
26 land may be liable for injury to a child who is less than 16
27 years old caused by a highly dangerous artificial condition on
28 the land if the owner, lessee, or occupant knew or reasonably
29 should have known that such children were likely to trespass
30 at the location of the artificial condition; the artificial
31 condition is one that the owner, lessee, or occupant knew or
32 reasonably should have known existed, and that the owner,
33 lessee, or occupant realized or should have realized involved
34 an unreasonable risk of death or serious bodily harm to such
35 children; the injured child did not discover the artificial

1 condition or realize the risk involved in the condition or the
2 risk of injury in the area made dangerous by the condition;
3 the utility to the owner, lessee, or occupant of maintaining
4 the artificial condition and the burden of eliminating the
5 danger were slight as compared with the risk to the child
6 involved; and the owner, lessee, or occupant failed to exercise
7 reasonable care to eliminate the danger or otherwise protect
8 the child.

9 The bill provides that a child who is 14 years of age or
10 older is presumed to appreciate the risk of highly dangerous
11 artificial conditions on land, but this presumption may be
12 overcome if the claimant proves that the child, at the time of
13 the injury, did not have the ability to appreciate the risk.

14 The bill provides that an owner, lessee, or occupant of land
15 whose actions are justified under Code section 704.3 (defense
16 of self or another), 704.4 (defense of property), or 704.5
17 (aiding another in the defense of property), shall not be
18 liable to a trespasser for damages arising from those actions.

19 The bill does not affect Code chapter 461C relating to
20 public use of private land for recreational purposes and for
21 urban deer control, or create or increase the liability of any
22 person.

23 The bill applies to all causes of actions accrued on or after
24 July 1, 2012.