

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senators Scott and Bell**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 18-60-108
9 RELATING TO THE LIABILITY OF LANDOWNERS TO TRESPASSERS;
10 AND FOR OTHER PURPOSES."

Subtitle

13 "RELATING TO THE LIABILITY OF LANDOWNERS TO TRESPASSERS."

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17 SECTION 1. Arkansas Code Annotated § 18-60-108 is amended to read as
18 follows:

19 "18-60-108. Liability of landowner for injury to trespasser.

20 (a) An owner, lessee, or occupant of land does not owe a duty of care
21 to a trespasser on the land, and is not liable for any injury to a trespasser
22 on the land, and no cause of action shall arise against the owner, lessee, or
23 occupant of land until the presence of the trespasser on the premises is known
24 and then the owner, lessee or occupant of the land shall be liable only for
25 injuries caused by the willful or wanton misconduct of the owner, lessee, or
26 occupant.

27 (b) This section does not affect the doctrine of attractive nuisance,
28 except that the doctrine may not be the basis for liability of an owner,
29 lessee, or occupant of agricultural land for any injury to a trespasser over
30 the age of eighteen (18) years.

31 (c) As used in this section, _trespasser_ means a person who enters on
32 the property of another without permission and without an invitation, express
33 or implied."

35 SECTION 2. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 3. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 4. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 SECTION 5. EMERGENCY. It is hereby found and determined by the General
14 Assembly that present law subjects landowners to liability for injuries to
15 trespassers caused by the landowners_ gross negligence which is something less
16 than the willful or wanton misconduct which should cause a defendant in
17 rightful possession of real estate to be liable to a trespasser who is injured
18 and that a change in the definition of trespasser as used in that section is
19 urgently needed; that legislation (SB 45) is currently pending which would
20 partially correct this problem but that it is urgent that this section be
21 amended further even if Senate Bill 45 becomes law; that this act is designed
22 to correct all the apparent problems in Arkansas Code 18-60-108 and to
23 supersede the provisions of Senate Bill 45 in the event it becomes law; and
24 that this act is urgently needed to correct the inadequate provisions of
25 18-60-108 whether or not Senate Bill 45 becomes law, and should be given
26 effect immediately. Therefore, an emergency is hereby declared to exist and
27 this act being necessary for the preservation of the public peace, health and
28 safety shall be in full force and effect from and after its passage and
29 approval.

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