

HOUSE _____ AMENDMENT NO. _____

Offered By

AMEND Senate Committee Substitute for Senate Bill No. 566, Page 1, Line 3 in the Title, by deleting all of said line and inserting in lieu thereof the word "agriculture."; and

Further amend said bill, Page 2, Section 322.005, Line 35, by inserting after all of said section and line the following:

"537.345. As used in sections 537.345 to 537.347, and section 537.351, the following terms mean:

(1) "Charge", the admission price or fee asked by an owner of land or an invitation or permission without price or fee to use land for recreational purposes when such invitation or permission is given for the purpose of sales promotion, advertising or public goodwill in fostering business purposes;

(2) "Land", all real property, land and water, and all structures, fixtures, equipment and machinery thereon;

(3) "Owner", any individual, legal entity or governmental agency that has any ownership or security interest whatever or lease or right of possession in land;

(4) "Recreational use", hunting, fishing, camping, picnicking, biking, nature study, winter sports, viewing or enjoying archaeological or scenic sites, or other similar activities undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;

(5) "Trespasser", any person who enters on the property of another without permission and without an invitation, express or implied regardless of whether actual notice of trespass was given or the land was posted in accordance with the provisions of sections 569.140 and 569.145.

537.346. Except as provided in sections 537.345 to 537.348, and section 537.351, an owner of land owes no duty of care to any person who enters on the land without charge to keep his land safe for recreational use or to give any general or specific warning with respect to any natural or artificial condition, structure, or personal property thereon.

537.351. 1. Except as provided in subsection 2 of this section, a possessor of real property, including an owner, lessee, or other occupant, or an agent of such owner, lessee, or other occupant, owes no duty of care to a trespasser except to refrain from harming the trespasser by an intentional, willful, or wanton act. A possessor of real property may use justifiable force to repel a criminal trespasser as provided by section 563.074.

2. A possessor of real property may be subject to liability for physical injury or death to a

trespasser in the following situations:

(1) If the trespasser is a child who is harmed by a dangerous artificial condition on the land; and

(a) The possessor knew or should have known that children were likely to trespass at the location of the condition;

(b) The condition is one which the possessor knew or reasonably should have known involved an unreasonable risk of death or serious physical injury to such children;

(c) The injured child because of the child's youth did not discover the condition or realize the risk involved in the intermeddling with the condition or in coming within the area made dangerous by the condition;

(d) The utility to the possessor of maintaining the condition and the burden of eliminating the danger were slight as compared with the risk to the child involved; and

(e) The possessor failed to exercise reasonable care to eliminate the danger or otherwise protect the injured child; or

(2) The possessor knew or should have known that trespassers consistently intrude upon a limited area of the possessor's land where the trespasser was harmed, the harm resulted from a dangerous artificial condition on the land; and

(a) The possessor created or maintained the artificial condition that caused the injury;

(b) The possessor knew that the condition was likely to cause death or serious bodily harm to trespassers;

(c) The possessor knew or should have known that the condition was of such a nature that trespassers would not discover it; and

(d) The possessor failed to exercise reasonable care to warn trespassers of the condition and the risk involved; or

(3) If the possessor knew of the trespasser's presence on the land and failed to exercise ordinary care as to active operations carried out on the land.

3. This section does not create or increase the liability of any possessor of real property and does not affect any immunities from or defenses to liability established under state law or available under common law to which a possessor of real property may be entitled under circumstances not covered by this section.”; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.