

50-State Compendium on Premises Liability - NAMWOLF - 2015

STATE	STATUTE/CASE	CATEGORIES	DEFENSES	COMMENTS
Alabama	<i>Tolbert v. Gulsby</i> , 333 So. 2d 129, 131 (Ala. 1976).	1. Invitee 2. Licensee 3. Trespasser	1. Contributory negligence. <i>Golden v. McCurry</i> , 392 So. 2d 815, 817 (Ala. 1980). 2. Open and obvious danger. <i>DolgenCorp, Inc. v. Taylor</i> , 28 So. 3d 737, 742 (Ala. 2009). 3. Assumption of risk. <i>Ex parte Barran</i> , 730 So. 2d 203, 205 (Ala. 1998).	1. Last clear chance doctrine is recognized. <i>Baker v. Helms</i> , 527 So. 2d 1241, 1244 (Ala. 1988). 2. Attractive nuisance doctrine is recognized. <i>Tolbert v. Gulsby</i> , 333 So. 2d 129, 132 (Ala. 1976). 3. Duty of care and duty to warn are limited when access is for recreational purposes. Ala. Code §§ 35-15-(1-28). 4. Firefighter's rule has not been adopted. <i>Thompson v. FMC Corp.</i> , 710 So. 2d 1270, 1271 (Ala. Civ. App. 1997).
Alaska	<i>Webb v. Sitka</i> , 561 P.2d 731, 732-33 (Alaska 1977).	Reasonable Care standard <i>*Trespassers included</i>	1. Pure comparative fault. Alaska Stat. § 09.17.060. 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Ferriss v. Chugach Elec. Ass'n</i> , 557 P.2d 763, 769 (Alaska 1976). 3. Firefighter's rule. <i>Moody v. Delta Western</i> , 38 P.3d 1139, 1141 (Alaska 2002).	1. Assumption of risk is NOT a complete defense. <i>Leavitt v. Gillaspie</i> , 443 P.2d 61, 68 (Alaska 1968). 2. Mode of Operation rule has not been adopted. <i>Edenshaw v. Safeway, Inc.</i> , 186 P.3d 568, 570 (Alaska 2008). 3. Attractive nuisance doctrine is recognized. <i>Taylor v. Alaska Rivers Navigation Co.</i> , 391 P.2d 15, 16 (Alaska 1964).
Arizona	<i>Nicoletti v. Westcor, Inc.</i> , 639 P.2d 330, 332 (Ariz. 1982).	1. Invitee 2. Licensee 3. Trespasser	1. Pure comparative fault. Ariz. Rev. Stat. § 12-2505. 2. Firefighter's rule. <i>Espinoza v. Schulenburg</i> , 212 Ariz. 215, 216 (Ariz. 2006).	1. Assumption of risk is NOT a complete defense; instead it is subsumed under comparative fault. Ariz. Rev. Stat. § 12-2505. 2. Open and obvious danger is simply a factor to be considered in determining breach. <i>Markowitz v. Arizona Parks Bd.</i> , 706 P.2d 364, 368 (Ariz. 1985). 3. Attractive nuisance doctrine is recognized. <i>Brown v. Arizona Pub. Serv. Co.</i> , 164 Ariz. 4, 7 (Ariz. Ct. App. 1990). 4. Shared premises can give rise to liability for the negligence of another landowner. <i>Busy Bee Buffet, Inc. v. Ferrell</i> , 82 Ariz. 192, 193 (Ariz. 1957). 5. Mode of Operation rule is recognized. <i>Chiara v. Fry's Food Stores</i> , 733 P.2d 283, 285 (Ariz. 1987).
Arkansas	<i>Baldwin v. Mosley</i> , 748 S.W.2d 146, 148 (Ark. 1988). Ark. Code § 18-60-108. <i>Liability of landowner for injury to trespasser.</i>	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (50% bar rule) - Ark. Code § 16-64-122. 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Van DeVeer v. RTJ, Inc.</i> , 101 S.W.3d 881, 886 (Ark. Ct. App. 2003). 3. Firefighter's rule. <i>Waggoner v. Troutman Oil Co.</i> , 894 S.W.2d 913, 915 (Ark. 1995).	1. Assumption of risk is NOT a complete defense and is subsumed under comparative fault. <i>Dawson v. Fulton</i> , 745 S.W.2d 617, 619 (Ark. 1988). 2. Attractive nuisance doctrine is recognized. <i>Bader v. Lawson</i> , 320 Ark. 561, 565 (Ark. 1995). 3. Recurring-condition rule is recognized. <i>Brookshires Grocery Co. v. Pierce</i> , 29 S.W.3d 742, 743 (Ark. Ct. App. 2000). 4. Limited liability on land that is made available for recreational purposes. Ark. Code § 18-11-304.

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California	<i>Rowland v. Christian</i> , 443 P.2d 561, 562 (Cal. 1968).	Reasonable Care standard *Trespassers included	1. Pure comparative fault. <i>Li v. Yellow Cab Co.</i>, 532 P.2d 1226, 1243 (Cal. 1975). 2. Primary assumption of risk bars recovery but secondary assumption of risk is subsumed under comparative fault. <i>Knight v. Jewett</i>, 834 P.2d 696, 708 (Cal. 1992). 3. Firefighter's Rule is recognized but is inapplicable where the tortious conduct occurred after the defendant knew or should have known of the fireman/police officer's presence. Cal. Civ. Code § 1714.9.	1. Open and obvious danger is NOT a complete defense but is relevant under comparative fault. <i>Osborn v. Mission Ready Mix</i>, 224 Cal. App. 3d 104, 122 (Cal. App. 4th Dist. 1990). 2. Rejected Mode of Operation rule. <i>Moore v. Wal-Mart Stores, Inc.</i>, 3 Cal. Rptr. 3d 813, 818 (Cal. App. 5th Dist. 2003). 3. Attractive nuisance doctrine has been abolished. <i>Beard v. Atchison, T. & S. F. R. Co.</i>, 4 Cal. App. 3d 129, 136 (Cal. App. 2d Dist. 1970). 4. Limited liability of landowner if injury occurred when injured person was committing certain felonies. Cal. Civ. Code § 847. 5. Limited liability of landowner if injured person was using the property for designated recreational purposes. Cal. Civ. Code § 846.
Colorado	Colo. Rev. Stat. § 13-21-115. <i>The Colorado Premises Liability Act</i> .	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (50% bar rule). Colo. Rev. Stat. § 13-21-111.	1. Assumption of risk is subsumed under comparative fault. Colo. Rev. Stat. 13-21-111.7. 2. Open and obvious danger is NOT a defense. <i>Vigil v. Franklin</i>, 103 P.3d 322, 331 (Colo. 2004). 3. Attractive nuisance doctrine is applicable for persons under 14 (if over 14 but under 18, then person is presumed competent). Colo. Rev. Stat. § 13-21-115 (2). 4. Mode of Operation rule is recognized. <i>Safeway Stores, Inc. v. Smith</i>, 658 P.2d 255, 257 (Colo. 1983). 5. Firefighter's rule has NOT been adopted. <i>Banyai v. Arruda</i>, 799 P.2d 441, 443 (Colo. Ct. App. 1990). 6. Limited liability for land that is allowed to be used for recreational purposes if access is allowed to public without charge. Colo. Rev. Stat. § 33-41-103.
Connecticut	<i>Morin v. Bell Court Condo Ass'n</i> , 612 A.2d 1197, 1199 (Conn. 1992).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Conn. Gen. Stat. § 52-572h(b). 2. Open and obvious danger is a defense to duty to warn. <i>Gargano v. Azpiri</i>, 955 A.2d 593, 598 (Conn. App. Ct. 2008). 3. Firefighter's rule. <i>Roberts v. Rosenblatt</i>, 146 Conn. 110, 113 (Conn. 1959).	1. Conn. Gen. Stat. § 52-557a requires the same standard of care for social and business invitees. 2. Assumption of risk and Last clear chance doctrines have been expressly abolished by statute. Conn. Gen. Stat. § 52-572h. 3. Mode of Operation rule is recognized. <i>Kelly v. Stop & Shop, Inc.</i>, 918 A.2d 249, 255 (Conn. 2007). 4. Attractive nuisance doctrine has not been adopted. <i>Neal v. Shiels, Inc.</i>, 166 Conn. 3, 11 (Conn. 1974). 5. Landowner who makes premises available to the public without charge, rent, fee, or other commercial service for recreational purposes owes no duty of care (with exceptions for willful/malicious conduct). Conn. Gen. Stat. § 52-557g.

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Delaware	<i>Bailey v. Pennington</i> , 406 A.2d 44, 47 (Del. 1979). 25 Del. C. § 1501 <i>Liability of owners or occupiers of land for injuries to guests and trespassers (on private residential or farm premises)</i> .	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Del. Code Tit. 10, § 8132. 2. Primary assumption of risk bars recovery but secondary assumption of risk is subsumed under comparative fault. <i>Patton v. Simone</i> , 626 A.2d 844, 852 (Del. Super. Ct. 1992). 3. Open and obvious danger. <i>Coleman v. Nat'l R.R.</i>, 1991 Del. Super. LEXIS 208, *6 (Del. Super. Ct. June 18, 1991). 4. Firefighter's rule. <i>Carpenter v. O'Day</i> , 562 A.2d 595, 596 (Del. Super. Ct. 1988).	1. Attractive nuisance doctrine is recognized. <i>Porter v. Delmarva Power & Light Co.</i> , 547 A.2d 124, 129 (Del. 1988).
D.C.	<i>Sandoe v. Lefta Assocs.</i> , 559 A.2d 732, 742 (D.C. 1989).	Reasonable Care standard *Trespassers excluded	1. Contributory Negligence. <i>Wingfield v. Peoples Drug Store, Inc.</i> , 379 A.2d 685, 687 (D.C. 1977). 2. Assumption of risk. <i>Sinai v. Polinger Co.</i> , 498 A.2d 520, 524 (D.C. 1985).	1. Attractive nuisance doctrine is recognized. <i>Holland v. Baltimore & O. R. Co.</i> , 431 A.2d 597, 601 (D.C. 1981).
Florida	<i>Wood v. Camp</i> , 284 So. 2d 691, 694 (Fla. 1973). <i>Fla. Stat. § 768.0755</i> . Premises liability for transitory foreign substances in a business establishment.	1. Invitee 2. Licensee 3. Trespasser	1. Pure comparative fault. Fla. Stat. § 768.81(2). 2. Express and primary assumption of risk relieve duty but secondary assumption of risk is subsumed under comparative fault. <i>Mazzeo v. Sebastian</i> , 550 So. 2d 1113, 1115 (Fla. 1989).	1. Classifies social guests as invitees. <i>Wood v. Camp</i> , 284 So. 2d 691, 695 (Fla. 1973). 2. Open and obvious danger is subsumed under comparative negligence. <i>Zambito v. Southland Rec. Enters.</i> , 383 So. 2d 989, 991 (Fla. 2d. Dist. Ct. App. 1980). 3. Last clear chance doctrine is subsumed into comparative negligence. <i>Beltran v. Waste Management</i> , 414 So. 2d 1145, 1146 (Fla. 3d. Dist. Ct. App. 1982). 4. Attractive nuisance doctrine is recognized. <i>Martinello v. B & P United States</i> , 566 So. 2d 761, 763 (Fla. 1990). 5. Limited liability for injuries to intoxicated trespassers. <i>Fla. Stat. § 768.075</i>. 6. Firefighter's rule is abolished; firefighters/law-enforcement personnel are invitees. Fla. Stat. § 112.182. 7. Presumption against liability in connection with criminal acts that occur on the premises and that are committed by third parties who are not employees or agents of the owner or operator of the convenience business. Fla. Stat. § 768.0705. 8. Mode of Operation rule is recognized. <i>Markowitz v. Helen Homes of Kendall Corp.</i>, 826 So. 2d 256, 259 (Fla. 2002).

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Georgia	O.C.G. § 51-3-1. <i>Liability of Owners and Occupiers of Land</i> .	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (50% bar rule). O.C.G.A. § 51-12-33. 2. Assumption of risk. <i>Muldovan v. McEachern</i> , 523 S.E.2d 566, 569 (Ga. 1999). 3. Open and obvious danger. <i>Sones v. Real Estate Dev. Group, Inc.</i> , 606 S.E.2d 687,688 (Ga. Ct. App. 2004). 4. Firefighter's rule. <i>Davis v. Pinson</i> , 631 S.E.2d 805, 806 (Ga. Ct. App. 2006).	1. Attractive nuisance doctrine is recognized. <i>Gregory v. Johnson</i> , 289 S.E.2d 232, 233 (Ga. 1982). 2. <i>Recreational Property Act</i> limits landowners' liability toward persons entering the land for recreational purposes. O.C.G. § 51-3-20 et. seq.
Hawaii	<i>Pickard v. Honolulu</i> , 452 P.2d 445, 446 (Haw. 1969).	Reasonable Care standard *Trespassers included	1. Modified comparative fault (51% bar rule). Haw. Rev. Stat. § 663-31. 2. Express and primary assumption of risk bars recovery but implied assumption of risk is subsumed under comparative fault. <i>Yoneda v. Tom</i> , 110 Haw. 367, 380 (Haw. 2006). 3. Firefighter's rule. <i>Thomas v. Pang</i> , 811 P.2d 821, 823 (Haw. 1991).	1. Open and obvious danger is NOT a defense. <i>Steigman v. Outrigger Enters.</i> , 267 P.3d 1238, 2011 (Haw. 2011). 2. Mode of Operation rule is recognized. <i>Gump v. Wal-martstores, Inc.</i> , 5 P.3d 407, 410 (Haw. 2000).
Idaho	<i>Mooney v. Robinson</i> , 471 P.2d 63, 65 (Idaho 1970).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (50% bar rule). Idaho Code Ann. § 6-801. 2. Express assumption of risk bars recovery but implied (primary and secondary) assumption of risk are NOT defenses. <i>Rountree v. Boise Baseball, LLC</i> , 296 P.3d 373, 380 (Idaho 2013). 3. Firefighter's rule. <i>Winn v. Frasher</i> , 116 Idaho 500, 503 (Idaho 1989).	1. Open and obvious danger is NOT a defense. <i>Harrison v. Taylor</i> , 768 P.2d 1321, 1328 (Idaho 1989). 2. Attractive nuisance doctrine is recognized. <i>O'Guin v. Bingham Cnty.</i> , 139 Idaho 9, 13 (Idaho 2003). 3. Landowner owes duty to trespasser only to refrain from willful/wanton acts. <i>Huyck v. Hecla Min. Co.</i> , 612 P.2d 142 (Idaho 1980).
Illinois	740 ILCS 130 et. seq. <i>Premises Liability Act</i> .	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (51% bar rule). 735 Ill. Comp. Stat. § 5/2-1116. 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Crider v. Crider</i> , 225 Ill. App. 3d 954, 957 (Ill. App. Ct. 3d Dist. 1992). 3. Express and primary assumption of risk bars recovery but secondary assumption of risk is subsumed under comparative fault. <i>Savino v. Robertson</i> , 652 N.E.2d 1240, 1243 (Ill. App. Ct. 1st Dist. 1995); <i>Hanke v. Wacker</i> , 576 N.E.2d 1113, 1120 (Ill. App. Ct. 5th Dist. 1991). 4. Firefighter's rule. <i>Washington v. Atlantic Richfield Co.</i> , 66 Ill. 2d 103, 108 (Ill. 1976).	1. Recurrent-condition rule is recognized. <i>Culli v. Marathon Petroleum Co.</i> , 862 F.2d 119, 126 (7th Cir. Ill. 1988). 2. Attractive nuisance doctrine is NOT recognized. <i>Cope v. Doe</i> , 102 Ill. 2d 278, 285 (Ill. 1984). 3. Limited liability based on recreational use statute. 745 Ill. Comp. Stat. § 65. 4. Premise owner owes a duty of reasonable care to firefighters. 425 Ill. Comp. Stat. § 25/9f.

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Indiana	<i>Burrell v. Meads</i> , 569 N.E.2d 637, 639 (Ind. 1991).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Ind. Code § 34-51-2-6. <i>Indiana Comparative Fault Act</i> . 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Merrill v. Knauf Fiber Glass, GmbH</i> , 771 N.E.2d 1258, 1266 (Ind. Ct. App. 2002). 3. Firefighter's rule. <i>Heck v. Robey</i> , 659 N.E.2d 498, 501 (Ind. 1995). 4. Express and primary assumption of risk bar recovery but secondary assumption of risk is NOT a complete bar to recovery. <i>Spar v. Cha</i> , 907 N.E.2d 974, 981 (Ind. 2009).	1. Same duty of care required for social guests as is for business invitees. <i>Burrell v. Meads</i> , 569 N.E.2d 637, 643 (Ind. 1991). 2. Mode of Operation rule is recognized. <i>Golba v. Kohl's Dep't Store, Inc.</i> , 585 N.E.2d 14, 16 (Ind. Ct. App. 1992). 3. Attractive nuisance doctrine is recognized. <i>Kopczynski v. Barger</i> , 887 N.E.2d 928, 930 (Ind. 2008).
Iowa	<i>Koenig v. Koenig</i> , 766 N.W.2d 635, 645 (Iowa 2009).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (51% bar rule). Iowa Code § 668.3(1)(b). <i>Iowa Comparative Fault Act</i> . 2. Open and obvious danger. <i>Konicek v. Loomis Bros., Inc.</i> , 457 N.W.2d 614, 618 (Iowa 1990). 3. Firefighter's rule. <i>Paul v. Luigi's, Inc.</i> , 557 N.W.2d 895, 897 (Iowa 1997).	1. Attractive nuisance doctrine is recognized. <i>Appling v. Stuck</i> , 164 N.W.2d 810, 811 (Iowa 1969). 2. Recreational use statute limits liability. Iowa Code § 461C.2. 3. Under Iowa's Comparative Fault Act, secondary assumption of risk is NOT a separate defense. <i>Coker v. Abell-Howe Co.</i> , 491 N.W.2d 143, 148 (Iowa 1992).
Kansas	<i>Jones v. Hansen</i> , 867 P.2d 303, 306 (Kan. 1994).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (50% bar rule). Kan. Stat. Ann. § 60-258a(a). 2. Open and obvious danger. <i>Wellhausen v. Univ. of Kan.</i> , 189 P.3d 1181, 1184 (Kan. Ct. App. 2008). 3. Firefighter's rule. <i>Calvert v. Garvey Elevators, Inc.</i> , 694 P.2d 433, 439 (Kan. 1985).	1. Mode of Operation rule is recognized. <i>Jackson v. K-Mart Corp.</i> , 840 P.2d 463, 470 (Kan. 1992). 2. Attractive nuisance doctrine is recognized. <i>Brittain v. Cubbon</i> , 378 P.2d 141, 144 (Kan. 1963). 3. Assumption of risk is NOT a complete defense. <i>Simmons v. Porter</i> , 298 Kan. 299, 313 (Kan. 2013).
Kentucky	<i>Hardin v. Harris</i> , 507 S.W.2d 172, 174 (Ky. 1974). K.R.S. § 381.232. <i>Liability for certain injuries</i> .	1. Invitee 2. Licensee 3. Trespasser	1. Pure comparative fault. Ky. Rev. Stat. Ann. § 411.182. 2. Firefighter's rule. <i>Buren v. Midwest Industries, Inc.</i> , 380 S.W.2d 96, 99 (Ky. 1964).	1. Assumption of risk is NOT a defense. <i>Parker v. Redden</i> , 421 S.W.2d 586, 593 (Ky. 1967). 2. Attractive nuisance doctrine is recognized. <i>Kirschner v. Louisville Gas & Electric Co.</i> , 743 S.W.2d 840, 846 (Ky. 1988). 3. Mode of Operation rule shifts burden to the defendant. <i>Lanier v. Wal-Mart Stores, Inc.</i> , 99 S.W.3d 431, 436 (Ky. 2003). 4. Open and obvious danger is not an automatic bar to recovery but is a factor in the comparative fault analysis. <i>Shelton v. Kentucky Easter Seals Society, Inc.</i> , 413 S.W.3d 901, 907 (Ky. 2013).

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Louisiana	<i>Cates v. Beauregard Elec. Coop., Inc.</i> , 328 So. 2d 367, 371 (La. 1976).	Reasonable Care standard *Trespassers included	1. Pure comparative fault. La. C.C. Art. 2323. 2. Firefighter's rule. <i>Henry v. Barlow</i> , 901 So. 2d 1207, 1213 (La. App. 3 Cir. May 4, 2005).	1. Assumption of risk subsumed under comparative negligence and does NOT serve as a complete bar to recovery. <i>Murray v. Ramada Inns, Inc.</i> , 521 So. 2d 1123, 1124 (La. 1988). 2. Open and obvious danger is a factor to be considered under comparative fault. <i>Broussard v. State, through Office of State Bldg., Div. of Admin.</i> , 113 So. 3d 175, 184 (La. 2013). 3. Attractive nuisance doctrine is recognized. <i>Smith v. Crown-Zellerbach, Inc.</i> , 638 F.2d 883, 885 (5th Cir. La. 1981). 4. Mode of Operation rule is NOT recognized. La. Rev. Stat. § 9:2800.6(B).
Maine	<i>Poulin v. Colby College</i> , 402 A.2d 846, 851 (Me. 1979).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (50% bar rule). Me. Rev. Stat. Ann. tit. 14, §156. 2. "Contractual" assumption of risk is a complete defense but "voluntary" assumption of risk is NOT a viable defense. <i>Wilson v. Gordon</i> , 354 A.2d 398, 402 (Me. 1976). 3. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Isaacson v. Husson College</i> , 297 A.2d 98, 105 (Me. 1972).	1. Recurring-condition rule is recognized. <i>Dumont v. Shaw's Supermarkets</i> , 664 A.2d 846, 849 (Me. 1995). 2. Attractive nuisance doctrine is recognized. <i>Jones v. Billings</i> , 289 A.2d 39, 42 (Me. 1972). 3. Firefighter's rule has not been adopted. <i>Holmes v. Adams Marine Ctr.</i> , 2000 Me. Super. LEXIS 162, *6 (Me. Super. Ct. July 17, 2000). 4. Limited liability for recreational or harvesting activities. Me. Rev. Stat. §159-A.
Maryland	<i>Baltimore Gas & Elec. Co. v. Flippo</i> , 705 A.2d 1144, 1148 (Md. 1998).	1. Invitee 2. Licensee by invitation (social guest) 3. Bare Licensee 4. Trespasser	1. Contributory negligence. <i>Bd. of Cnty. Comm'r of Garrett Cnty. v. Bell Atlantic</i> , 695 A.2d 171, 181 (Md. 1997). 2. Assumption of risk. <i>Morgan State Univ. v. Walker</i> , 919 A.2d 21, 24 (Md. 2007). 3. Firefighter's rule. <i>Crews v. Hollenbach</i> , 730 A.2d 742, 753 (Md. Ct. Spec. App. 1999).	1. Rejected Mode of Operation rule. <i>Maans v. Giant of Md., L.L.C.</i> , 871 A.2d 627, 638 (Md. Ct. Spec. App. 2005). 2. Attractive nuisance doctrine is NOT recognized. <i>Osterman v. Peters</i> , 272 A.2d 21, 22 (Md. 1971).
Massachusetts	<i>Mounsey v. Ellard</i> , 297 N.E.2d 43, 51 (Mass. 1973).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (51% bar rule). Mass. Gen. Laws Ann. Ch. 231, § 85. 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Dos Santos v. Coleta</i> , 987 N.E.2d 1187, 1192 (Mass. 2013).	1. Assumption of risk defense is abolished by statute. Mass. Gen. Laws ch. 231, § 85. 2. Mode of Operation rule is recognized. <i>Sheehan v. Roche Bros. Supermarkets</i> , 863 N.E.2d 1276, 1286 (Mass. 2007). 3. Firefighter's rule is NOT recognized. <i>Hopkins v. Medeiros</i> , 724 N.E.2d 336, 343 (Mass. App. Ct. 2000). 4. Attractive nuisance doctrine is codified and recognized. Mass. Gen. Laws ch. 231, § 85Q.

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Michigan	<i>Stitt v. Holland Abundant Life Fellowship</i> , 614 N.W.2d 88, 91 (Mich. 2000).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Mich. Comp. Laws Ann. § 600.2959. 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Lugo v. Ameritech Corp.</i> , 629 N.W.2d 384, 386 (Mich. 2001). 3. Primary assumption of risk relieves duty but implied assumption of risk is subsumed under comparative negligence. <i>Kreski v. Modern Wholesale Elec. Supply Co.</i> , 415 N.W.2d 178, 186 (Mich. 1987). 4. Firefighter's rule. <i>Kreski v. Modern Wholesale Electric Supply Co.</i> , 415 N.W.2d 178, 192 (Mich. 1987).	1. Attractive nuisance doctrine is recognized. <i>Rand v. Knapp Shoe Stores</i> , 178 Mich. App. 735, 741 (Mich. Ct. App. 1989).
Minnesota	<i>Peterson v. Balach</i> , 199 N.W.2d 639, 647 (Minn. 1972).	Reasonable Care standard <i>*Trespassers excluded</i>	1. Modified comparative fault (51% bar rule). Minn. Stat. § 604.01(1). 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Baber v. Dill</i> , 531 N.W.2d 493, 495 (Minn. 1995). 3. Express and primary assumption of risk relieve duty but secondary assumption of risk is subsumed under comparative fault. <i>Springrose v. Springrose</i> , 292 Minn. 23, 24 (Minn. 1971) (citing Minn. Stat. § 604.01(1a)).	1. Firefighter's rule has been abolished. Minn. Stat. § 604.06.
Mississippi	<i>Doe v. Jameson Inn</i> , 56 So. 3d 549, 555 (Miss. 2011).	1. Invitee 2. Licensee 3. Trespasser	1. Pure comparative fault. Miss. Code Ann. § 11-7-15. 2. Firefighter's rule. <i>Farmer v. B & G Food Enters.</i> , 818 So. 2d 1154, 1159 (Miss. 2002).	1. Assumption of risk doctrine is subsumed under the comparative fault statute. <i>Horton v. American Tobacco Co.</i> , 667 So. 2d 1289, 1293 (Miss. 1995). 2. Attractive nuisance doctrine is applicable but it does not apply to "obvious, natural dangers." <i>Doe v. Jameson Inn</i> , 56 So. 3d 549, 557 (Miss. 2011). 3. Mode of Operation rule has not been adopted. <i>Byrne v. Wal-Mart Stores, Inc.</i> , 877 So. 2d 462, 467 (Miss. Ct. App. 2003). 4. Open and obvious danger is NOT a complete defense but is a factor within the comparative fault. <i>Tharp v. Bunge Corp.</i> , 641 So. 2d 20, 22 (Miss. 1994).

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Missouri	<i>Carter v. Kinney</i> , 896 S.W.2d 926, 927 (Mo. 1995).	1. Invitee 2. Licensee 3. Trespasser	1. Pure comparative fault. <i>Gustafson v. Benda</i> , 661 S.W.2d 11, 15 (Mo. 1983). 2. Express and primary assumption of risk bar recovery but secondary assumption of risk is subsumed under comparative fault. <i>Coomer v. Kan. City Royals Baseball Corp.</i> , 437 S.W.3d 184, 194 (Mo. 2014). 3. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Holzhausen v. Bi-State Dev. Agency</i> , 414 S.W.3d 488, 496 (Mo. Ct. App. 2013). 4. Firefighter's rule. <i>Gray v. Russell</i> , 853 S.W.2d 928, 930 (Mo. 1993).	1. Mode of Operation rule is recognized. <i>Sheil v. T.G. & Y. Stores Co.</i> , 781 S.W.2d 778, 782 (Mo. 1989). 2. Attractive nuisance doctrine is recognized. <i>Patterson v. Gibson</i> , 287 S.W.2d 853, 855 (Mo. 1956).
Montana	<i>Limberhand v. Bigditch Co.</i> , 706 P.2d 491, 496 (Mont. 1985).	Reasonable Care standard *Trespassers included	1. Modified Comparative fault (51% bar rule). <i>Mont. Code Ann. § 27-1-702</i> . 2. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Richardson v. Corvallis Pub. Sch. Dist. No. 1</i> , 950 P.2d 748, 756 (Mont. 1997).	1. Mont. Code Ann. § 27-1-701 prevents courts from distinguishing between social guests and invitees in determining liability. 2. Assumption of risk is subsumed under the comparative fault analysis. <i>Lewis v. Puget Sound Power & Light Co.</i> , 29 P.3d 1028, 1032 (Mont. 2001). 3. Attractive nuisance doctrine is recognized. <i>Limberhand v. Big Ditch Co.</i> , 218 Mont. 132, 137 (Mont. 1985).
Nebraska	<i>Heins v. Webster Cnty.</i> , 552 N.W.2d 51, 57 (Neb. 1996).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (50% bar rule). Neb. Rev. Stat. § 25-21,185.11. 2. Assumption of risk. Neb. Rev. Stat. § 25-21,185.12. 3. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Aguallo v. City of Scottsbluff</i> , 678 N.W.2d 82, 93 (Neb. 2004). 4. Firefighter's rule. <i>Buchanan v. Prickett & Son, Inc.</i> , 203 Neb. 684, 691 (Neb. 1979).	1. Court retained a separate classification for trespassers, reasoning that a landowner should not owe a duty to exercise reasonable care to those not lawfully on one's property. <i>Heins v. Webster County</i> . 552 N.W.2d 51, 57 (Neb. 1996). 2. Attractive nuisance doctrine is recognized. <i>Wiles v. Metzger</i> , 238 Neb. 943, 950 (Neb. 1991).
Nevada	<i>Foster v. Costco Wholesale Corp.</i> , 291 P.3d 152, 156 (Nev. 2012).	Reasonable Care standard * Flagrant Trespassers excluded	1. Modified comparative fault (51% bar rule). Nev. Rev. Stat. § 41-141. 2. Firefighter's rule. <i>Moody v. Manny's Auto Repair</i> , 871 P.2d 935, 938 (Nev. 1994).	1. Open and obvious nature of a condition is merely a factor to be considered under the comparative fault analysis. <i>Foster v. Costco Wholesale Corp.</i> , 291 P.3d 150, 156 (Nev. 2012). 2. Implied assumption of risk defense has been abrogated. <i>Auckenthaler v. Grundmeyer</i> , 110 Nev. 682, 689 (Nev. 1994) 3. Attractive nuisance doctrine has neither been adopted nor rejected. <i>Kimberlin v. Lear</i> , 88 Nev. 492, 494 (Nev. 1972).

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New Hampshire	<i>Ouellette v. Blanchard</i> , 364 A.2d 631, 634 (N.H. 1976).	Reasonable Care standard <i>*Trespassers included</i>	1. Modified comparative fault (51% bar rule). N.H. Rev. Stat. Ann. § 507:7-d. 2. Firefighter's rule. N.H. Rev. Stat. § 507:8-h.	1. Assumption of the risk doctrine has been supplanted by the doctrine of comparative fault. <i>Bazazi v. Michaud</i> , 856 F. Supp. 33, 34 (D.N.H. 1994). 2. Landowner liability limited for certain uses. N.H. Rev. Stat. § 508:14. <i>Landowner Liability Limited</i> . 3. Landowner liability limited from land made available for recreational use. N.H. Rev. Stat. § 212:34. <i>Duty of Care</i> .
*New Jersey	<i>Snyder v. I. Jay Realty Co.</i> , 153 A.2d 1, 5 (N.J. 1959).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). N.J. Stat. Ann. § 2A:15-5.1. 2. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Benedict v. Podwats</i> , 271 A.2d 417, 421 (N.J. 1970).	1. Mode of Operation rule is recognized. <i>Wollerman v. Grand Union Stores, Inc.</i> , 221 A.2d 513, 514 (N.J. 1966). 2. Firefighters' rule was abrogated by N.J. Stat. Ann. 2A:62A-21. <i>Ruiz v. Mero</i> , 917 A.2d 239, 247 (N.J. 2007). 3. Attractive nuisance doctrine is recognized. <i>Vega by Muniz v. Piedilato</i> , 713 A.2d 442, 453 (N.J. 1998).
New Mexico	<i>Ford v. Bd. of County Comm'rs</i> , 879 P.2d 766, 771 (N.M. 1994).	Reasonable Care standard <i>*Trespassers excluded</i>	1. Pure comparative fault. <i>Scott v. Rizzo</i> , 634 P.2d 1234, 1242 (N.M. 1981). 2. Primary assumption of risk relieves duty but secondary assumption of risk is subsumed under comparative negligence. <i>Williamson v. Smith</i> , 491 P.2d 1147, 1152 (N.M. 1971). 3. Firefighter's rule. <i>Baldonado v. El Paso Natural Gas Co.</i> , 176 P.3d 277, 280 (N.M. 2007).	1. Open and obvious danger is NOT a complete defense. <i>Klopp v. Wackenhut Corp.</i> , 113 N.M. 153, 157 (N.M. 1992). 2. Recurrent-condition rule is recognized. <i>Mahoney v. J. C. Penney Co.</i> , 377 P.2d 663, 673 (N.M. 1962). 3. Attractive nuisance doctrine is recognized. <i>Carmona v. Hagerman Irrigation Co.</i> , 125 N.M. 59, 62 (N.M. 1998).
*New York	<i>Basso v. Miller</i> , 352 N.E.2d 868, 872 (N.Y. 1976).	Reasonable Care standard <i>*Trespassers included</i>	1. Pure comparative fault. N.Y. C.P.L.R. § 1411. 2. Express and primary assumption of risk bar recovery but secondary assumption of risk is subsumed under comparative fault. <i>Olejniczak v. E.I. Du Pont De Nemours & Co.</i> , 998 F. Supp. 274, 281 (W.D.N.Y. 1997). 3. Open and obvious danger. <i>Czorniewy v. Mosera</i> , 298 A.D.2d 352, 352 (N.Y. App. Div. 2d Dep't 2002).	1. Recurrent-condition rule is recognized. <i>Simoni v. 2095 Cruger Assocs.</i> , 285 A.D.2d 431, 432 (N.Y. App. Div. 1st Dep't 2001). 2. Firefighter's rule is largely abolished by N.Y. C.L.S. Gen. Oblig. § 11-106. 3. Attractive nuisance doctrine has been rejected. <i>Morse v. Buffalo Tank Corp.</i> , 19 N.E.2d 981, 983 (N.Y. 1939). 4. No duty to keep premises safe for certain recreational uses. N.Y. C.L.S. Gen. Oblig. § 9-103.
North Carolina	<i>Nelson v. Freedman</i> , 507 S.E.2d 882, 892 (N.C. 1998).	Reasonable Care standard <i>*Trespassers excluded</i>	1. Contributory negligence. <i>Smith v. Fiber Controls Corp.</i> , 268 S.E.2d 504, 506 (N.C. 1980). 2. Open and obvious danger. <i>Freeman v. Food Lion, LLC</i> , 173 N.C. App. 207, 211 (N.C. Ct. App. 2005).	1. Last clear chance doctrine is recognized. <i>Watson v. White</i> , 308 S.E.2d 268, 272 (N.C. 1983). 2. Attractive nuisance doctrine is recognized. <i>Broadway v. Blythe Industries, Inc.</i> , 313 N.C. 150, 153 (N.C. 1985).
*Information for the states of New Jersey and New York with the assistance of d'Arcambal Ousley & Cuyler Burk LLP.				

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North Dakota	<i>O'Leary v. Coenen</i> , 251 N.W.2d 746, 752 (N.D. 1977).	Reasonable Care standard <i>*Trespassers excluded</i>	1. Modified comparative fault (50% bar rule). N.D. Cent. Code § 32-03.2-02. 2. Open and obvious danger; unless possessor should anticipate harm despite obviousness. <i>Groleau v. Bjornson Oil Co.</i> , 676 N.W.2d 763, 769 (N.D. 2004).	1. Assumption of risk is NOT an affirmative defense; it is subsumed under the comparative fault analysis. <i>Iglehart v. Iglehart</i> , 670 N.W.2d 343, 349 (N.D. 2003).
Ohio	<i>Gladon v. Greater Cleveland Reg'l Transit Auth.</i> , 662 N.E.2d 287, 291 (Ohio 1996).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Ohio Rev. Code Ann. § 2315.33. 2. Open and obvious danger. <i>Armstrong v. Best Buy Co.</i> , 788 N.E.2d 1088, 1090 (Ohio 2003). 3. Express and primary assumption of risk bar recovery but secondary assumption of risk is subsumed under comparative fault. <i>Anderson v. Ceccardi</i> , 451 N.E.2d 780, 783 (Ohio 1983). 4. Firefighter's rule. <i>Torchik v. Boyce</i> , 121 Ohio St. 3d 440, 443 (Ohio 2009).	1. Attractive nuisance doctrine is recognized. <i>Bennett v. Stanley</i> , 748 N.E.2d 41, 47 (Ohio 2001).
Oklahoma	<i>Pickens v. Tulsa Metro. Ministry</i> , 951 P.2d 1079, 1083 (Okla. 1997).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Okla. Stat. Ann. tit. 23 § 13. 2. Open and obvious danger. <i>Tucker v. ADG, Inc.</i> , 102 P.3d 660, 669 (Okla. 2004). 3. Assumption of risk. Okla. Stat. Ann. tit. 23 § 12.	1. Mode of Operation rule is recognized. <i>Lingerfelt v. Winn-Dixie Tex., Inc.</i> , 645 P.2d 485, 489 (Okla. 1982). 2. Attractive nuisance doctrine is recognized. <i>Knowles v. Tripledee Drilling Co.</i> , 771 P.2d 208, 209 (Okla. 1989).
*Oregon	<i>Walsh v. C&K Mkt., Inc.</i> , 16 P.3d 1179, 1181 (Or. Ct. App. 2000).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Or. Rev. Stat. Ann. § 31.600. 2. Open and obvious danger; unless possessor should anticipate harm despite such obviousness. <i>Dawson v. Payless for Drugs</i> , 433 P.2d 1019, 1021 (Or. 1967).	1. Assumption of risk doctrine is subsumed under comparative fault. Or. Rev. Stat. § 31.620(2). 2. Firefighter's rule has been abolished. <i>Christensen v. Murphy</i> , 678 P.2d 1210, 1218 (Or. 1984). 3. With certain exceptions, an owner is immune from liability if the owner permits public use of the land for recreational purposes. Or. Rev. Stat. Ann. § 105.682. 4. The duty of a landowner to those who travel adjacent to the land is a limited duty of ordinary care. <i>Towe v. Sacagawea, Inc.</i> , 347 P.3d 766, 783 (Or. 2015).

* Information for the state of Oregon with the assistance of Gordon-Polser LLC.

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Pennsylvania	<i>Jones v. Three Rivers Mgmt. Corp.</i> , 394 A.2d 546, 552 (Pa. 1978).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). 42 Pa. Cons. Stat. § 7102. 2. Express assumption of risk is a defense but implied assumption of risk is not. <i>Howell v. Clyde</i> , 620 A.2d 1107, 1113 (Pa. 1993). 3. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Campisi v. Acme Mkts.</i> , 915 A.2d 117, 120 (Pa. Super. Ct. 2006).	1. Firefighter's rule has not yet been adopted. <i>Bole v. Erie Ins. Exch.</i> , 967 A.2d 1017, 1021 (Pa. Super. Ct. 2009). 2. Attractive nuisance doctrine is recognized. <i>Stahl v. Cocalico School Dist.</i> , 534 A.2d 1141, 1142 (Pa. Commw. Ct. 1987).
Rhode Island	<i>Marioenzi v. Joseph Di Ponte, Inc.</i> , 333 A.2d 127, 133 (R.I. 1975). <i>Tantimonico v. Allendale Mut. Ins. Co.</i> , 637 A.2d 1056, 1062 (R.I. 1994).	Reasonable Care standard <i>*Trespassers excluded</i>	1. Pure comparative fault. R.I. Gen. Laws § 9-20-4. 2. Open and obvious danger. <i>Bucki v. Hawkins</i> , 914 A.2d 491, 497 (R.I. 2007). 3. Assumption of risk. <i>Kennedy v. Providence Hockey Club</i> , 119 R.I. 70, 76 (R.I. 1977). 4. Firefighter's rule. <i>Higgins v. R.I. Hosp.</i> , 35 A.3d 919, 922-23 (R.I. 2012).	1. Attractive nuisance doctrine is recognized. <i>Haddad v. First Nat'l Stores</i> , 109 R.I. 59, 64 (R.I. 1971).
South Carolina	<i>Landry v. Hilton Head Plantation Prop. Owners Ass'n</i> , 452 S.E.2d 619, 620 (S.C. Ct. App. 1994).	1. Invitee 2. Licensee 3. Adult Trespasser 4. Children	1. Modified comparative fault (51% bar rule). <i>Nelson v. Concrete Supply Co.</i> , 399 S.E.2d 783, 784 (S.C. 1991). 2. Express and primary assumption of risk bar recovery but secondary assumption of risk is subsumed under comparative fault. <i>Davenport v. Cotton Hope Plantation Horizontal Prop. Regime</i> , 508 S.E.2d 565, 574 (S.C. 1998). 3. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Callander v. Charleston Doughnut Corp.</i> , 406 S.E.2d 361, 362 (S.C. 1991).	1. Firefighter's rule is NOT recognized. <i>Trousdell v. Cannon</i> , 572 S.E.2d 264, 266 (S.C. 2002). 2. Attractive nuisance doctrine is recognized. <i>Henson v. Int'l Paper Co.</i> , 650 S.E.2d 74, 77 (S.C. 2007). 3. Limited liability for land made available for public recreational use. S.C. Code Ann. § 27-3-10.
South Dakota	<i>Janis v. Nash Finch Co.</i> , 780 N.W.2d 497, 501 (S.D. 2010).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (P's recovery barred if P was more than "slightly" negligent). S.D. Codified Laws § 20-9-2. 2. Assumption of risk. <i>Duda v. Phatty McGees, Inc.</i> , 758 N.W.2d 754, 759 (S.D. 2008). 3. Open and obvious danger. <i>Mitchell v. Ankney</i> , 396 N.W.2d 312, 314 (S.D. 1986).	1. Attractive nuisance doctrine is recognized. <i>Hofer v. Meyer</i> , 295 N.W.2d 333, 335 (S.D. 1980).

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Tennessee	<i>Hudson v. Gaitan</i> , 675 S.W.2d 699, 704 (Tenn. 1984).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (50% bar rule). <i>McIntyre v. Balentine</i> , 833 S.W.2d 52, 57 (Tenn. 1992). 2. Express assumption of risk bars recovery but implied assumption of risk is subsumed under comparative fault. <i>Perez v. McConkey</i> , 872 S.W.2d 897, 905 (Tenn. 1994). 3. Firefighter's rule. <i>Carson v. Headrick</i> , 900 S.W.2d 685, 689 (Tenn. 1995).	1. Open and obvious danger does not, <i>ipso facto</i> , relieve a defendant of a duty of care. <i>Green v. Roberts</i> , 398 S.W.3d 172, 177 (Tenn. Ct. App. 2012). 2. Attractive nuisance doctrine is recognized. <i>Metro. Govt. of Nashville & Davidson Cnty. v. Counts</i> , 541 S.W.2d 133, 136 (Tenn. 1976).
Texas	<i>Rosas v. Buddies Food Store</i> , 518 S.W.2d 534, 536 (Tex. 1975).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (51% bar rule). Tex. Civ. Prac. & Rem. Code Ann. §§ 33.001. 2. Express and primary assumption of risk bar recovery but secondary assumption of risk is NOT a complete bar. <i>Farley v. M M Cattle Co.</i> , 529 S.W.2d 751, 758 (Tex. 1975). 3. Firefighter's rule. <i>Campus Mgmt., Inc. v. Kimball</i> , 991 S.W.2d 948, 950 (Tex. App. Fort Worth 1999).	1. Open and obvious danger defense is subsumed under comparative fault. <i>Del Lago Ptnrs. v. Smith</i> , 307 S.W.3d 762, 772 (Tex. 2010). 2. Attractive nuisance doctrine is recognized. <i>Texas Utils. Elec. Co. v. Timmons</i> , 947 S.W.2d 191, 193 (Tex. 1997).
Utah	<i>Pratt v. Mitchell Hollow Irrigation Co.</i> , 813 P.2d 1169, 1172 (Utah 1991).	1. Invitee 2. Licensee 3. Trespasser	1. Modified comparative fault (50% bar rule). Utah Code Ann. § 78B-5-818(2). 2. Express and primary assumption of risk bar recovery but secondary assumption of risk is subsumed under comparative fault. <i>Jacobsen Constr. Co. v. Structo-Lite Eng'g</i> , 619 P.2d 306, 310 (Utah 1980). 3. Firefighter's rule. <i>Fordham v. Oldroyd</i> , 171 P.3d 411, 413 (Utah 2007).	1. Mode of Operation rule is recognized. <i>Canfield v. Albertsons, Inc.</i> , 841 P.2d 1224, 1227 (Utah Ct. App. 1992). 2. Open and obvious danger is a factor within the comparative fault analysis. <i>Hale v. Beckstead</i> , 116 P.3d 263, 268 (Utah 2005).
Vermont	<i>Demag v. Better Power Equip., Inc.</i> , 102 A.3d 1101, 1110 (Vt. 2014).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (51% bar rule). Vt. Stat. Ann. Tit. 12, § 1036. 2. Open and obvious danger. <i>Wall v. A. N. Derringer, Inc.</i> , 117 A.2d 390, 391 (Vt. 1955).	1. Mode of Operation rule is recognized. <i>Malaney v. Hannaford Bros. Co.</i> , 861 A.2d 1069, 1075 (Vt. 2004). 2. Attractive nuisance doctrine is NOT recognized. <i>Zukatis by Zukatis v. Perry</i> , 682 A.2d 964, 965 (Vt. 1996).
Virginia	<i>Tate v. Rice</i> , 315 S.E.2d 385, 388 (Va. 1984).	1. Invitee 2. Licensee 3. Trespasser	1. Contributory negligence. <i>Sawyer v. Commerci</i> , 563 S.E.2d 748, 752 (Va. 2002). 2. Open and obvious danger. <i>Tate v. Rice</i> , 315 S.E.2d 385, 390 (Va. 1984). 3. Assumption of risk. <i>Thurmond v. Prince William Prof'l Baseball Club</i> , 574 S.E.2d 246, 249 (Va. 2003). 4. Firefighter's rule. <i>Benefiel v. Walker</i> , 422 S.E.2d 773, 775 (Va. 1992).	1. Attractive nuisance doctrine has been repudiated. <i>Washabaugh v. Northern Virginia Const. Co.</i> , 48 S.E.2d 276, 277 (Va. 1948).

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*Washington	<i>Younce v. Ferguson</i> , 724 P.2d 991, 995 (Wash. 1986).	1. Invitee 2. Licensee 3. Trespasser	1. Pure comparative fault. Wash. Rev. Code Ann. §§ 4.22.005-015. 2. Express and primary assumption of risk bar recovery but secondary assumption of risk is subsumed under comparative fault. <i>Leyendecker v. Cousins</i> , 770 P.2d 675, 678 (Wash. Ct. App. 1989). 3. Open and obvious danger; unless possessor should have anticipated harm despite obviousness. <i>Iwai v. State</i> , 915 P.2d 1089, 1093 (Wash. 1996). 4. Firefighter's rule. <i>Ballou v. Nelson</i> , 67 Wn. App. 67, 71 (Wash. Ct. App. 1992).	1. A variant of the Mode of Operation rule is recognized. <i>Pimentel v. Roundup Co.</i> , 666 P.2d 888, 893 (Wash. 1983). 2. Attractive nuisance doctrine is recognized. <i>Ochampaugh v. Seattle</i> , 588 P.2d 1351, 1353 (Wash. 1979). 3. Limited liability (immunity with respect to unintentional injuries) if the owner permits public use of the land for outdoor recreation. R.C.W.A. § 4.24.210.
West Virginia	<i>Mallet v. Pickens</i> , 522 S.E.2d 436, 446 (W. Va. 1999).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (50% bar rule). <i>Bradley v. Appalachian Power Co.</i> , 256 S.E.2d 879, 885 (W. Va. 1979). 2. Open and obvious danger doctrine was abolished by <i>Hersh v. E-T Enters., P'ship</i> , 752 S.E.2d 336, 349 (W. Va. 2013); but is reinstated by W. Va. Code §55-7-27.	1. Assumption of risk is subsumed under comparative fault. <i>King v. Kayak Mfg. Corp.</i> , 387 S.E.2d 511, 516 (W. Va. 1989). 2. Attractive nuisance doctrine is NOT recognized. <i>Mallet v. Pickens</i> , 522 S.E.2d 436, 447 (W. Va. 1999).
Wisconsin	<i>Antoniewicz v. Reszczyński</i> , 236 N.W.2d 1, 2 (Wis. 1975).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (51% bar rule). Wis. Stat. § 895.045(1). 2. Express assumption of risk is a defense but implied assumption of risk is subsumed under comparative fault. <i>Polsky v. Levine</i> , 73 Wis. 2d 547, 552 (Wis. 1976). 3. Firefighter's rule. <i>Hass v. Chi. & N. W. Ry. Co.</i> , 179 N.W.2d 885, 888 (Wis. 1970).	1. A variant of the Mode of Operation rule is recognized. <i>Steinhorst v. H. C. Prange Co.</i> , 180 N.W.2d 525, 527 (Wis. 1970). 2. Open and obvious danger is subsumed under comparative fault. <i>Rockweit by Donohue v. Senecal</i> , 541 N.W.2d 742, 749 (Wis. 1995). 3. Attractive nuisance doctrine is codified. Wis. Stat. § 895.529.
Wyoming	<i>Clarke v. Beckwith</i> , 858 P.2d 293, 296 (Wyo. 1993).	Reasonable Care standard *Trespassers excluded	1. Modified comparative fault (51% bar rule). Wyo. Stat. § 1-1-109(b). 2. Primary assumption of risk bars recovery but secondary assumption of risk is subsumed under comparative fault. (Wyo. Stat. § 1-1-123); <i>Halpern v. Wheeldon</i> , 890 P.2d 562, 565 (Wyo. 1995).	1. Attractive nuisance doctrine is recognized. <i>Thunder Hawk v. Union Pac. R.R.</i> , 844 P.2d 1045, 1049 (Wyo. 1992). 2. Open and obvious danger is subsumed under comparative fault. <i>Valance v. VI-Doug, Inc.</i> , 50 P.3d 697, 702 (Wyo. 2002).

* Information for the state of Washington with the assistance of Gordon-Polscer LLC.

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NOTES

What does "50% bar rule" mean?

Plaintiff may only recover damages if plaintiff is 49% or less at fault.

What does "51% bar rule" mean?

Plaintiff may only recover damages if plaintiff is 50% or less at fault.

What does "subsumed under comparative fault" mean?

It means that the doctrine is not a separate/complete defense and instead is only a consideration under the comparative fault analysis.

What is the Firefighter's rule?

"The Firefighter's rule, also known as the public-safety officer's rule, bars an injured public-safety official from maintaining a negligence action against a tortfeasor whose alleged malfeasance is responsible for bringing the officer to the scene of a fire, crime, or other emergency where the officer is injured." *Higgins v. R.I. Hosp.*, 35 A.3d 919, 922-23 (R.I. 2012).

What is the Mode of Operation rule?

"The Mode of Operation rule looks to a business's choice of a particular mode of operation and not events surrounding the plaintiff's accident. Under the rule, the plaintiff is not required to prove notice if the proprietor could reasonably anticipate that hazardous conditions would regularly arise." *Jackson v. K-Mart Corp.*, 840 P.2d 463, 469 (Kan. 1992).

"The Mode of Operation rule differs from the standard premises liability rule in that with the mode of operation rule courts allow a customer injured due to a condition inherent in the way a store is operated to recover without establishing that the proprietor had actual or constructive knowledge of the dangerous condition." *Id.*

What is the Recurring-condition rule?

Under the Recurring-condition rule a defendant's actual knowledge of a dangerous recurring condition can establish constructive notice. *Perez v. Ritz-Carlton (Virgin Islands), Inc.*, 59 V.I. 522, 532 (VI. 2013).

Known-trespasser rule

Several states recognize the Known-trespasser rule (also called, "frequent or discovered-trespasser rule"), which is an exception to the limited duty of care owed to trespassers. The Known-trespasser rule states that a landowner who knows of or reasonably anticipates the presence of a trespasser in a place of danger owes a duty of ordinary care to protect or warn the trespasser about that dangerous condition. *E.g.*, *Lee v. Chicago Transit Authority*, 605 N.E.2d 493, 498 (Ill. 1992). The Known-trespasser rule has not been included in this compilation. Please check individually to see whether the Known-trespasser rule is recognized in a particular jurisdiction.

Recreational-use statutes and animal statutes

Several states have enacted recreational-use statutes that limit or eliminate a landowner's liability for personal injury suffered by a person who was using the land recreationally. *E.g.*, Ark. Code § 18-11-304; O.C.G.A. § 51-3-22. Only some of these recreational-use statutes have been included in this compilation. Please check individually to see whether such recreational-use statutes have been enacted in a particular jurisdiction.

Similarly, several states have also enacted statutes that may hold landowners liable for injuries caused by animals kept on the premises. *E.g.*, Ariz. Rev. Stat. § 24-521; Neb. Rev. Stat. § 54-601. Such statutes have not been included in this compilation. Please check individually to see whether such statutes have been enacted in a particular jurisdiction.

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