

## **Animals and the Attractive Nuisance Doctrine**

Our topics for this week are:

- **What is an attractive nuisance in the eyes of the law**
- **Animals and situations that can come to be an attractive nuisance**
- **How to minimize the risk of an attractive nuisance lawsuit**

If you own animals, children may be drawn to them. Children who are able to trespass on your property may become injured by your animals and you could be legally responsible for their injuries. This is called the attractive nuisance doctrine.

### **What is an Attractive Nuisance?**

The attractive nuisance doctrine is a legal concept used to describe specific dangerous property features. Any object added to the natural condition of the property can be an attractive nuisance if it is both appealing and can be harmful to children. The classic example of an attractive nuisance is a swimming pool, but just about anything added to the property by an owner may be an attractive nuisance. Natural items are usually not an attractive nuisance. Courts may only consider an item to be an attractive nuisance if it is an item the property owner provides care for, maintains, or installs.

Property owners are expected to take reasonable precautions to protect children from objects on their property. An attractive nuisance usually is not something inside of a person's home. Instead, it is typically something that a property owner has in an easily accessible location. In addition to being out in the open, an attractive nuisance is usually left unattended and remains easy for children to interact with. Attractive nuisance laws apply to children. However, some courts may consider any person under 18 years old a child. From a legal perspective, children do not understand the gravity of trespassing, so adults still have a duty of care to protect children who trespass. An adult is usually only the plaintiff in an attractive nuisance case if they are suing on behalf of their child or if they were injured while trying to protect a child from an attractive nuisance.

### **Animals and Situations that may become an Attractive Nuisance**

Since attractive nuisance laws are vague and vary among states. Looking at examples of attractive nuisances makes it easier to understand what they are. An attractive nuisance can be just about anything that a property owner has added to their property. As long as it is appealing to children and has the potential to harm them, something might be an attractive nuisance. This includes outdoor pets or farm animals.

Anytime a property owner was aware children were interacting with something and declined to prevent the children from accessing the item, they may be held liable if a child was injured. Therefore, there is still some responsibility for parents to monitor small children from basic harm.

When a child is injured by an attractive nuisance, they and their family may be able to file a personal injury lawsuit. These lawsuits argue that the property owner had a duty to protect children from a naturally appealing object. The plaintiff and their lawyer will need to show that the object was obviously dangerous and highlight the ways the property owner failed to protect children who might wander onto their property. The property owner may need to compensate the victim for their injuries. This can include paying for medical bills, lost earning potential, trauma, and lost wages. If the injuries were fatal, the plaintiffs can sue for wrongful death damages as well. Since the cases tend to involve parents too, the property owner might need to compensate the parent for any lost wages, extra expenses, or legal fees due to the child's injury. If the defendant was willfully malicious or extremely careless with an obviously dangerous item, punitive damages may be brought up.

### **How to Minimize the Risk of an Attractive Nuisance Lawsuit**

A defendant may be able to avoid losing a lawsuit if they can show that they took reasonable action to prevent injuries or restricted access to the nuisance. Warning or safety signs are not enough alone. A property owner is still being negligent if they fail to consider all the ways a child could try to access the nuisance.

Preventive measures to guard against an attractive nuisance lawsuit involving your dog, livestock, or horses include fencing or enclosing your property to deter children from entering, routinely maintaining your fences and gates and keeping records on maintenance efforts, posting your property with “no trespassing signs”, asking trespassing children to leave, and warning their parents. Homeowner’s insurance and an umbrella policy are advisable for owners of potentially dangerous animals allowed or kept outdoors.

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If you have comments or you're interested in particular animal handling subjects contact us at [CBC@BetterAnimalHandling.com](mailto:CBC@BetterAnimalHandling.com)

Now let’s recap the key points to remember from today’s episode:

- 1. Potentially dangerous animals allowed or kept outdoors may pose being an attractive nuisance to children.**
- 2. Animals allowed or kept outdoors should be contained within well built and maintained fences or other enclosures.**

**3. Risks of danger should be posted on the property line of animal owners with potentially dangerous animals.**

More information on animal handling can be found in my recent books, *Animal Handling and Physical Restraint*, *Concise Textbook of Small Animal Handling*, and *Concise Textbook of Large Animal Handling* all published by CRC Press and available on Amazon and from many other fine book supply sources.

Additional information is provided at: [www.betteranimalhandling.com](http://www.betteranimalhandling.com) . This website has more than 150 past podcasts with notes on handling of dogs, cats, other small mammals, birds, reptiles, horses, cattle, small ruminants, swine, and poultry.

Don't forget, serious injury or death can result from handling and restraining some animals. Safe and effective handling and restraint requires experience and continual practice. Acquisition of the needed skills should be under the supervision of an experienced animal handler.