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# A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the recreational use  
2 law, codified as chapter 520, Hawaii Revised Statutes, is an  
3 important means to allow public access to land and water areas  
4 for recreational purposes while limiting landowner's liability  
5 towards persons or minors entering for these purposes.

6           The legislature further finds that, despite the legal  
7 protection currently afforded under chapter 520, Hawaii Revised  
8 Statutes, landowners remain reluctant to open their lands for  
9 recreational use due to the threat of lawsuits and associated  
10 costs in the event a person or minor is injured on the  
11 landowner's property.

12           The legislature also finds that chapter 520, Hawaii Revised  
13 Statutes, must be clarified to better protect a landowner from  
14 liability for injuries experienced by persons or minors while on  
15 the landowner's property for recreational purposes to ensure  
16 that more land and water areas can be available to the public  
17 for recreational purposes.



1           The purpose of this Act is to encourage more landowners to  
2 make land and water areas available with or without charge to  
3 the public for recreational purposes by:

4           (1) Clarifying that persons or minors injured on the  
5 landowner's property in circumstances where a  
6 landowner's liability is limited under chapter 520,  
7 Hawaii Revised Statutes, have no cause of action;

8           (2) Awarding attorneys' fees and costs if a suit is  
9 determined to lack a reasonable basis for bringing the  
10 action; and

11           (3) Providing that persons or minors, as a matter of law,  
12 assume the risks for outdoor recreational activities  
13 and cannot maintain an action against the landowner  
14 for any injuries resulting from these inherent risks.

15           SECTION 2. Chapter 520, Hawaii Revised Statutes, is  
16 amended by adding three new sections to be appropriately  
17 designated and to read as follows:

18           "§520-    **No cause of action.**    Except as provided in  
19 section 520-5, no cause of action shall exist for a person or  
20 minor injured using the premises as provided in section 520-3.



1        §520- Award of attorneys' fees and costs. If, as to any  
2 action against a landowner, the court finds against the claimant  
3 because of the application of this chapter, it shall determine  
4 whether the claimant had a reasonable basis for bringing the  
5 action, and if no reasonable basis is found, shall order the  
6 claimant to pay for the reasonable attorneys' fees and costs  
7 incurred by the landowner in defending against the action.

8        §520- Assumption of the risk. It is recognized that  
9 outdoor recreational activities may be hazardous. Therefore,  
10 each person or minor who participates in outdoor recreational  
11 activities accepts, as a matter of law, the dangers inherent in  
12 these activities, and shall not maintain an action against an  
13 owner, occupant, or lessee of land for any injuries that result  
14 from these inherent risks, dangers, or hazards. The categories  
15 of risks, hazards, or dangers that the outdoor recreational  
16 participant assumes as a matter of law include but are not  
17 limited to the following: variations in terrain, trails, paths,  
18 or roads; surface or subsurface snow or ice conditions; bare  
19 spots, rocks, trees, stumps, and other forms of forest growth or  
20 debris; structures on the land; environmental toxic exposure;



1 equipment not in use; pole lines; fences; and collisions with  
2 other objects, persons, or minors."

3 SECTION 3. Section 520-2, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending the definition of "recreational purpose" to  
6 read:

7 ""Recreational purpose" includes but is not limited to any  
8 of the following, or any combination thereof: hunting, fishing,  
9 swimming, biking, boating, camping, picnicking, hiking, pleasure  
10 driving, spectating, nature study, water skiing, winter sports,  
11 motorsports, and viewing or enjoying historical, archaeological,  
12 scenic, or scientific sites."

13 2. By amending the definition of "recreational user" to  
14 read:

15 ""Recreational user" means any person or minor who is on or  
16 about the premises that the owner of land either directly or  
17 indirectly invites or permits, with or without charge, entry  
18 onto the property for recreational purposes."

19 SECTION 4. Section 520-4, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1           "(a) Except as specifically recognized by or provided in  
2 section 520-6, an owner of land who either directly or  
3 indirectly invites or permits with or without charge any person  
4 or minor to use the property for recreational purposes does not:

- 5           (1) Extend any assurance that the premises are safe for  
6           any purpose;
- 7           (2) Confer upon the person or minor the legal status of an  
8           invitee or licensee to whom a duty of care is owed;
- 9           (3) Assume responsibility for, or incur liability for, any  
10          injury to person, minor, or property caused by an act  
11          of omission or commission of [~~such~~] the persons[~~+~~] or  
12          minors; and
- 13          (4) Assume responsibility for, or incur liability for, any  
14          injury to person [~~or~~], persons, or minors who enter  
15          the premises in response to an injured recreational  
16          user."

17          SECTION 5. This Act does not affect rights and duties that  
18          matured, penalties that were incurred, and proceedings that were  
19          begun before its effective date.

20          SECTION 6. Statutory material to be repealed is bracketed  
21          and stricken. New statutory material is underscored.



# S.B. NO. 2176

1 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: *Amelia J. ...*



# S.B. NO. 2176

**Report Title:**

Landowner Liability; Recreational Uses of Land

**Description:**

Clarifies that persons or minors that enter private property with or without charge by a landowner for recreational purposes have no cause of action, unless exempted under law. Requires a court to award attorneys' fees and costs to landowners if plaintiffs bring unreasonable claims. Establishes as a matter of law, persons or minors participating in outdoor recreational activities accept the inherent dangers in the activities.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

