

JAN 22 2010

S.B. NO. 2522

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# A BILL FOR AN ACT

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RELATING TO LANDOWNER LIABILITY.

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

1       SECTION 1. Chapter 663, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4       "§663-       Trespass; no duty of care; liability of owner;  
5 rebuttable presumption. (a) Notwithstanding any provision in  
6 this chapter to the contrary, an owner of land owes no duty of  
7 care to keep the land safe for entry or use by a trespasser or  
8 to give any warning of a dangerous condition, use, structure, or  
9 activity on the land to a trespasser.

10       (b) There shall be a presumption that an owner of land is  
11 not liable to a trespasser for injury, loss, damage, or death  
12 occurring on the premises; provided that:

13       (1) The land has a sign or signs displayed on the land  
14 sufficient to give notice and containing the words  
15 "Private Property" and "No Trespassing; and

16       (2) The sign or signs, containing letters not less than  
17 two inches in height, are placed along the boundary

18 line of the land and at roads and trails entering the



1           land in a manner and position as to be clearly  
2           noticeable from outside the boundary line.

3           (c) In any action for civil damages, the presumption that  
4 an owner of land is not liable to a trespasser for injury, loss,  
5 damage, or death occurring on the land may be rebutted by a  
6 preponderance of the evidence that the owner:

- 7           (1) Committed an act or omission that constitutes gross  
8           negligence or wilful or wanton disregard for the  
9           safety of the trespasser and that act or omission  
10           caused the injury, loss, damage, or death; or  
11           (2) Intentionally injured the trespasser.

12           (d) As used in this section, unless the context otherwise  
13 requires:

14           "Invited guest" means any person specifically invited by  
15 the owner or authorized representative of the owner to visit  
16 land for social, business, or other purpose.

17           "Land" means land, roads, water, watercourses, private ways  
18 and buildings, structures, and machinery or equipment when  
19 attached to realty, other than lands owned by the government.

20           "Owner" means the possessor of a fee interest, a tenant,  
21 lessee, occupant, or person, group, club, partnership, or  
22 corporation in control of the land.





**Report Title:**

Landowner Liability; Trespass

**Description:**

Provides that landowners have no duty of care to trespassers. Establishes rebuttable presumption of no liability if the land is posted with signs. Permits trespasser to overcome presumption by preponderance of evidence that owner was grossly negligent or intentionally injured the trespasser.

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