
A BILL FOR AN ACT

RELATING TO TRESPASS ON PUBLIC PROPERTY.

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

1 SECTION 1. The legislature finds that the department of
2 business, economic development, and tourism has estimated that:

3 (1) The total surface area of the State of Hawaii is
4 approximately 4,123,000 acres;

5 (2) Approximately 1,565,538 acres is owned by the State;

6 (3) Approximately 530,123 acres is owned by the federal
7 government; and

8 (4) Approximately 2,095,661 acres of the total surface
9 area of the State of Hawaii, or 50.8 percent, is
10 public property.

11 The legislature further finds that because of limitations
12 in financial and staff resources, government agencies are not
13 able to adequately monitor access of all public property. While
14 certain areas are fenced and access is limited, literally
15 thousands of acres of public lands go without any monitoring to
16 ensure that public access is regulated to ensure the welfare and
17 safety of users.



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1 The legislature acknowledges that Hawaii's State Tort
2 Liability Act, chapter 662, Hawaii Revised Statutes, waives the
3 State's immunity for actions arising from torts occurring on its
4 property.

5 In light of this, the legislature believes that there is a
6 need to limit the State's exposure to tort liability, especially
7 in those cases where persons trespass onto public property. In
8 instances where a person enters public property without due
9 authorization, the legislature declares that the State shall be
10 immune from any tort liability arising from the trespass.

11 The purpose of this Act is to assert the State's sovereign
12 immunity from all torts arising from trespass onto public
13 property.

14 SECTION 2. Section 662-15, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§662-15 Exceptions.** This chapter shall not apply to:

17 (1) Any claim based upon an act or omission of an employee
18 of the State, exercising due care, in the execution of
19 a statute or regulation, whether or not [~~such~~] the
20 statute or regulation is valid, or based upon the
21 exercise or performance or the failure to exercise or



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- 1 perform a discretionary function or duty on the part
2 of a state officer or employee, whether or not the
3 discretion involved has been abused;
- 4 (2) Any claim arising in respect of the assessment or
5 collection of any tax, or the detention of any goods
6 or merchandise by law enforcement officers;
- 7 (3) Any claim for which a remedy is provided elsewhere in
8 the laws of the State;
- 9 (4) Any claim arising out of assault, battery, false
10 imprisonment, false arrest, malicious prosecution,
11 abuse of process, libel, slander, misrepresentation,
12 deceit, trespass onto public property, or interference
13 with contract rights;
- 14 (5) Any claim arising out of the combatant activities of
15 the Hawaii National Guard and Hawaii state defense
16 force during time of war, or during the times the
17 Hawaii National Guard is engaged in federal service
18 pursuant to section 316, 502, 503, 504, 505, or 709 of
19 title 32 of the United States Code;
- 20 (6) Any claim arising in a foreign country; or



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1 (7) Any claim arising out of the acts or omissions of any
2 boating enforcement officer."

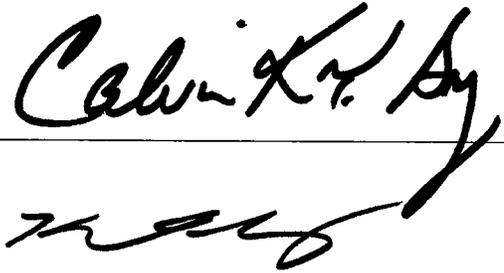
3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

INTRODUCED BY:



JAN 19 2017



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Report Title:

Sovereign Immunity; Trespass onto Public Property

Description:

Asserts sovereign immunity from torts arising from trespass onto public property.

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