

JAN 22 2021

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 toward persons entering for such purposes.

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

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



1 The purpose of this Act is to encourage more landowners to
2 make land and water areas available to the public for
3 recreational purposes by:

4 (1) Clarifying that persons injured on the landowner's
5 land in circumstances where a landowner's liability is
6 limited under chapter 520, Hawaii Revised Statutes,
7 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, as a matter of law, assumes
12 the risks for outdoor recreational activities and
13 cannot maintain an action against the landowner for
14 any injuries resulting from such 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
20 injured using the premises as provided in section 520-3.



1 §520- **Award of attorneys' fees and costs.** If, as to
2 any action against a landowner, the court finds against the
3 claimant because of the application of this chapter, it shall
4 determine whether the claimant had a reasonable basis for
5 bringing the action, and if no reasonable basis is found, shall
6 order the claimant to pay for the reasonable attorneys' fees and
7 costs 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 who participates in outdoor recreational activities
11 accepts, as a matter of law, the dangers inherent in such
12 activities, and shall not maintain an action against an owner,
13 occupant, or lessee of land for any injuries which result from
14 such inherent risks, dangers, or hazards. The categories of
15 such risks, hazards, or dangers which 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; equipment not in use; pole
21 lines; fences; and collisions with other objects or persons."



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

4 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: *Maureen R. Prange*



S.B. NO. 568

Report Title:

Landowner Liability; Recreational Uses of Land

Description:

Clarifies that persons that enter private property 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. States that, as a matter of law, persons participating in outdoor recreational activities accept the inherent dangers in the activities.

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