

ACT 186

S. B. NO. 56

A Bill for an Act to Encourage Landowners to Make Land and Water Areas Available to the Public by Limiting Liability in Connection Therewith.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

SECTION 2. Definitions. As used in this Act:

(1) "Land" means land, roads, water, water courses, private ways and buildings, structures, and machinery or equipment when attached to realty, other than lands owned by the government.

(2) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

(3) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(4) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land.

(5) "House guest" means any person specifically invited by the owner or a member of his household to visit at the owner's home whether for dinner, or

ACT 186

to a party, for conversation or any other similar purposes including for recreation, and include playmates of the owner's minor children.

SECTION 3. Duty of care of owner limited. Except as specifically recognized by or provided in section 6, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

SECTION 4. Liability of owner limited. Except as specifically recognized by or provided in section 6, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

- (1) Extend any assurance that the premises are safe for any purpose.
- (2) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
- (3) Assume responsibility for or incur liability for any injury to person or property caused by an act of omission or commission of such persons.

SECTION 5. Exceptions to limitations. Nothing in this Act limits in any way any liability which otherwise exists:

- (1) For wilful or malicious failure to guard or warn against a dangerous condition, use, or structure which the owner knowingly creates or perpetuates and for wilful or malicious failure to guard or warn against a dangerous activity which the owner knowingly pursues or perpetuates.
- (2) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the State or a political subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.
- (3) For injuries suffered by a house guest while on the owner's premises, even though the injuries were incurred by the house guest while engaged in one or more of the activities designated in section 2(3).

SECTION 6. Persons using land. Nothing in this Act shall be construed to:

- (1) Create a duty of care or ground of liability for injury to persons or property.
- (2) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this Act to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

SECTION 7. Rights. No person shall gain any rights to any land by prescription or otherwise, as a result of any usage thereof for recreational purposes as provided in this Act.

SECTION 8. Rules and Regulations. The department of land and natural resources shall make rules and regulations pursuant to chapter 91, Hawaii Revised Statutes as it deems necessary to carry out the purpose of this Act.

SECTION 9. Effective date. This Act shall take effect upon its approval.
(Approved July 14, 1969.)