

A Bill for an Act Relating to Landowners' Liability.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to read as follows:

**“CHAPTER 520A  
LANDOWNER’S LIABILITY FOR  
ACCESS TO CONTROL INVASIVE SPECIES**

**§520A-1 Purpose.** The purpose of this chapter is to encourage owners of land to make their land and water areas available to other persons for the purpose of controlling or eradicating invasive species by limiting landowners’ liability toward persons entering thereon for such purposes.

**§520A-2 Definitions.** As used in this chapter, unless the context requires otherwise:

“Charge” means an admission price or fee asked in return for invitation or permission to enter or go upon the land.

“Invasive species” means any plant, plant pest, noxious weed, microorganism, biological control organism, or animal that can directly or indirectly injure or cause damage to the environment or to the interests of agriculture, horticulture, aquaculture, animal or public health, native species, natural resources, irrigation, or navigation.

“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.

“Owner” means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

**§520A-3 Duty of care of owner limited.** Except as specifically recognized by or provided in section 520A-6, an owner of land owes no duty of care to keep the premises safe for entry or use by others for control or eradication of invasive species, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes, or to persons entering in response to such persons who require assistance, either directly or indirectly, including but not limited to rescue, medical care, or other form of assistance.

**§520A-4 Liability of owner limited.** (a) Except as specifically recognized by or provided in section 520A-6, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for control or eradication of invasive species does not:

- (1) Extend any assurance that the premises are safe for any purpose;
- (2) Confer upon the 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 any person or property caused by an act of omission or commission of such persons; and
- (4) Assume responsibility for, or incur liability for, any injury to any person or persons who enter the premises in response to an injured

person who entered the premises to control or eradicate invasive species.

(b) An owner of land who is required or compelled to provide access or parking for such access through or across the owner's property because of state or county land use, zoning, or planning law, ordinance, rule, ruling, or order, to reach property subject to control or eradication of invasive species, shall be afforded the same protection as to such access, including parking for such access, as an owner of land who invites or permits any person to use that owner's property for control or eradication of invasive species under subsection (a).

**§520A-5 Exceptions to limitations.** Nothing in this chapter 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; or
- (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 control or eradication of invasive species, 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.

**§520A-6 Persons using land.** Nothing in this chapter shall be construed to:

- (1) Create a duty of care or ground for liability for injury to persons or property; or
- (2) Relieve any person using the land of another for control or eradication of invasive species from any obligation which the person may have in the absence of this chapter to exercise care in the person's use of such land and in the person's activities thereon, or from the legal consequences of failure to employ such care."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 2003.)