
A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

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

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

4 "§663- Trespass; no duty of care; liability of owner;
5 rebuttable presumption. (a) There shall be a rebuttable
6 presumption that an owner of agricultural or range land owes no
7 duty of care to a trespasser for injury to, property damage, or
8 death of the trespasser that occurs on agricultural or range
9 land or to warn the trespasser of dangerous natural conditions
10 or agricultural or range activities or uses; provided that the
11 agricultural or range land:

12 (1) Is fenced, enclosed, or secured in a manner designed
13 to exclude trespassers; and

14 (2) Has at least one sign displayed on the range land that
15 is sufficient to give notice and that reads: "Private
16 Property". The sign shall contain letters not less
17 than two inches in height, and shall be placed along
18 the boundary line of the agricultural or range land in



1 a manner and position that is clearly noticeable from
2 outside the boundary line.

3 (b) Nothing in this section shall limit the liability of
4 an agricultural or range land owner whose acts are grossly
5 negligent, in wilful or wanton disregard of the safety of a
6 trespasser, or who intentionally causes injury, property damage,
7 or death to a trespasser.

8 (c) The duty of care of an owner of range land who allows
9 recreational use of range land shall be as provided in section
10 520-3.

11 (d) As used in this section:

12 "Agricultural land" means any land exceeding five acres
13 that is used primarily for agricultural purposes, including
14 general farming, cane growing, fruit growing, flower growing,
15 grazing, dairying, and the production of any form of livestock
16 or poultry. It includes land required for adequate farm
17 dwelling and other essential farm buildings, roads, and
18 adjacent lands under the control of an owner.

19 "Invited guest" means any person specifically invited by
20 the owner or authorized representative of the owner to visit the
21 agricultural land or range land for social, business, or other
22 purposes.



1 "Range land" means any land exceeding five acres that is
2 used primarily for range use, including livestock grazing,
3 dairying, or keeping of equine, bovine, and similar livestock.
4 Range land includes appurtenant roadways, waterways, buildings,
5 structures, and machinery or equipment attached to the land that
6 is used in connection with range land activities. The range
7 land may include multiple parcels of less than five acres in
8 size that together exceed five acres in the aggregate, when
9 operated as a single venture.

10 "Trespasser" means a person who enters or remains on
11 agricultural or range land without the permission of the owner
12 or the owner's agent and who is not an invited guest."

13 SECTION 2. Section 708-814, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§708-814 Criminal trespass in the second degree.** (1) A
16 person commits the offense of criminal trespass in the second
17 degree if:

18 (a) The person knowingly enters or remains unlawfully in
19 or upon premises that are enclosed in a manner
20 designed to exclude intruders or are fenced;

21 (b) The person enters or remains unlawfully in or upon
22 commercial premises after a reasonable warning or



1 request to leave by the owner or lessee of the
2 commercial premises, the owner's or lessee's
3 authorized agent, or a police officer; provided that
4 this paragraph shall not apply to any conduct or
5 activity subject to regulation by the National Labor
6 Relations Act.

7 For the purposes of this paragraph, "reasonable
8 warning or request" means a warning or request
9 communicated in writing at any time within a one-year
10 period inclusive of the date the incident occurred,
11 which may contain but is not limited to the following
12 information:

13 (i) A warning statement advising the person that the
14 person's presence is no longer desired on the
15 property for a period of one year from the date
16 of the notice, that a violation of the warning
17 will subject the person to arrest and prosecution
18 for trespassing pursuant to section
19 708-814(1)(b), and that criminal trespass in the
20 second degree is a petty misdemeanor;

21 (ii) The legal name, any aliases, and a photograph, if
22 practicable, or a physical description, including



1 but not limited to sex, racial extraction, age,
2 height, weight, hair color, eye color, or any
3 other distinguishing characteristics of the
4 person warned;

5 (iii) The name of the person giving the warning along
6 with the date and time the warning was given; and

7 (iv) The signature of the person giving the warning,
8 the signature of a witness or police officer who
9 was present when the warning was given and, if
10 possible, the signature of the violator; or

11 (c) The person enters or remains on agricultural lands
12 without the permission of the owner of the land, the
13 owner's agent, or the person in lawful possession of
14 the land, and the agricultural lands:

15 (i) Are fenced, enclosed, or secured in a manner
16 designed to exclude intruders;

17 (ii) Have a sign or signs displayed on the unenclosed
18 cultivated or uncultivated agricultural land
19 sufficient to give notice and reading as follows:
20 "Private Property". The sign or signs,
21 containing letters not less than two inches in
22 height, shall be placed along the boundary line



1 of the land and at roads and trails entering the
2 land in a manner and position as to be clearly
3 noticeable from outside the boundary line; or

4 (iii) At the time of entry, are fallow or have a
5 visible presence or evidence of livestock-
6 raising, such as cattle, horses, water troughs,
7 shelters, paddocks, or of a crop:

8 (A) Under cultivation;

9 (B) In the process of being harvested; or

10 (C) That has been harvested.

11 (2) Criminal trespass in the second degree is a petty
12 misdemeanor[-]; provided that a fine of up to \$10,000 may be
13 imposed for an offense under subsection (1)(c)."

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

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2020.



Report Title:

Landowner Liability; Trespass

Description:

Establishes a rebuttable presumption that an owner of agricultural or range land owes no duty of care, under certain conditions, toward a trespasser for injury suffered by the trespasser that occurs on agricultural or range land or to warn the trespasser of dangerous natural conditions or agricultural or range activities or uses. Clarifies the offense of criminal trespass in the second degree as it relates to agriculture and authorizes a fine for this offense. Effective July 1, 2020.
(SB1079 HD1)

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