
A BILL FOR AN ACT

RELATING TO PRIVATE PROPERTY.

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

1 SECTION 1. The legislature finds that albizia trees are an
2 invasive species that are prone to breaking and falling during
3 high winds and tropical storms. Fallen albizia trees caused
4 power outages and other structural damage on the island of
5 Hawaii during tropical storm Iselle in 2014. Albizia trees fell
6 over highways, roads, and driveways in such large numbers during
7 that storm that many people were left trapped in their homes and
8 rescue personnel were prevented from reaching them or, in some
9 cases, returning to their base of operations.

10 The legislature further finds that albizia trees located on
11 private properties often create hazardous conditions for
12 adjacent properties and that the development of these hazardous
13 conditions should be prevented wherever possible. Albizia trees
14 have been successfully controlled on many properties, but some
15 property owners have been unresponsive to inquiries from owners
16 of adjacent properties.



1 The legislature therefore finds that property owners should
2 have the authority to enter adjacent properties to control
3 albizia trees to prevent or address hazardous conditions,
4 subject to certain conditions.

5 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§708- Control of albizia trees on private property.

9 (a) An owner of real property or the owner's agent shall be
10 authorized to enter vacant real property that is privately owned
11 and directly adjacent to the entering owner's property to
12 control one or more albizia trees located on the adjacent
13 property; provided that that the entering owner:

14 (1) Has consulted with a tree risk assessment
15 qualification certified arborist to confirm that the
16 albizia trees on the adjacent property:

17 (A) Create a condition that could become hazardous to
18 the entering owner's property or persons
19 thereupon if left untreated; and

20 (B) May be felled and removed or otherwise treated
21 according to current established methods that



1 minimize risk to human health and safety, and
2 without damaging any structure, utility pole, or
3 utility line;

4 (2) Has unsuccessfully made two or more reasonable
5 attempts within the previous thirty days to contact
6 the owner of record of the adjacent property via
7 telephone or registered mail; and

8 (3) Has given written notice to the adjacent property
9 owner prior to accessing the adjacent property, to
10 prevent the property from mistakenly being determined
11 vacant where the land is not in production because it
12 is, for example, resting pasture land at the intended
13 time of entry.

14 (b) It shall be a defense to citation or prosecution under
15 sections 708-814, 708-815, 708-820, 708-821, 708-822, 708-823,
16 and 708-823.5 that the entering property owner or agent entered
17 an adjacent property for the purposes of and in compliance with
18 this section.

19 (c) As used in this section:

20 "Albizia tree" means any tree of the species *Falcataria*
21 *moluccana* or *Albizia chinensis*.



1 "Vacant" means improved or unimproved but having no
2 reasonable indication of use or maintenance for one year or
3 more."

4 SECTION 3. Section 708-816, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§708-816 Defense to trespass.** It is a defense to
7 prosecution for trespass as a violation of sections 708-814 and
8 708-815 that the defendant entered upon and passed along or over
9 established and well-defined roadways, pathways, or trails
10 leading to public beaches over government lands, whether or not
11 under lease to private persons[-], or for the purposes of and in
12 compliance with section 708- ."

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

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2019.



Report Title:

Private Property; Albizia Trees; Control; Safety

Description:

Authorizes a property owner or agent to enter adjacent property with albizia trees under certain conditions, including consulting with a tree arborist and providing written notice, to control albizia trees before they become hazardous. Provides a defense to criminal prosecution. (SD2)

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