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AMENDMENT TO: Senate Bill 1079 Senate Draft 2 House Draft 2
CHIEF CLERK'S OFFICE
OFFICE OF REPRESENTATIVES Representative George Fontaine

DATE: April 12, 2011

SECTION 1. Senate Bill No. 1079, Senate Draft 2, House Draft 2, is amended by deleting its contents, and replacing it with the following text, to read as follows:

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; agricultural land; range land; limited
5 duty of care and liability of owner. (a) An owner of
6 agricultural or range land owes no duty of care to a trespasser
7 for injury, property damage, or death of the trespasser that
8 occurs on agricultural or range land, or to warn a trespasser of
9 dangerous natural conditions or range activities or uses;

10 provided that
11 the
12 agricultural
13 or range land:

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1 (1) Is fenced, enclosed, or secured in a manner designed
2 to exclude the general public, or marked by a
3 structure or barrier, such as a cattle grid, cattle
4 grate, or other obstacle used to secure livestock;

5 (2) Is fenced, enclosed, or secured in a manner designed
6 to exclude the general public, or marked by a
7 structure or barrier that identifies it as
8 agricultural or range land; or

9 (3) Has at least one sign displayed on the agricultural or
10 range land that is sufficient to give notice and
11 reads: "No Trespassing" or a substantially similar
12 message. The sign shall contain letters not less than
13 two inches in height and shall be placed along the
14 boundary line of the agricultural or range land in a
15 manner and position that is clearly noticeable from
16 outside the boundary line. Where an owner knows or
17 should reasonably anticipate the presence of
18 trespassers in an area or areas of agricultural or
19 range land, a sign or signs sufficient to give notice
20 shall be placed at the area or areas.

21 (b) Nothing in this section shall limit the liability of a
22 agricultural or range land owner whose acts are grossly



1 negligent or in willful or wanton disregard of the safety of a
2 trespasser, or who intentionally causes injury, property damage,
3 or death to a trespasser. This section shall not apply to minor
4 children twelve years of age or younger where the owner knows of
5 or should reasonably anticipate the presence of the children on
6 the agricultural or range land.

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

10 (d) As used in this section:

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

18 "Owner" means the person who holds title to or is in lawful
19 possession of the range land.

20 "Range land" means any land exceeding four acres that is
21 used primarily for range use, including livestock grazing,
22 dairying, or keeping of equine, bovine, and similar livestock,



1 such as cattle, horses, sheep, and goats. Range land includes
2 appurtenant roadways, waterways, buildings, structures, and
3 machinery or equipment attached to the land that is used in
4 connection with range land activities. Range land in rural
5 areas may include multiple parcels of less than four acres in
6 size that together exceed four acres in the aggregate, when
7 operated as a single venture.

8 "Trespasser" means a person who enters or remains
9 unlawfully on the agricultural or range land without the
10 permission of the owner."

11 SECTION 2. The Hawaii Farm Bureau Federation shall submit
12 a report to the legislature no later than twenty days prior to
13 the convening of the regular session of 2013 regarding the
14 number of personal injury claims brought by or on behalf of
15 trespassers against owners of agricultural or range land.

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

19 SECTION 4. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on January 1, 2012,
21 and shall be repealed on December 31, 2017.

