

JAN 25 2012

A BILL FOR AN ACT

RELATING TO PUBLIC LAND LIABILITY.

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

1 SECTION 1. The purpose of this Act is to amend Act 82,
2 Session Laws of Hawaii 2003, to amend and clarify the definition
3 of "improved public lands."

4 SECTION 2. Act 82, Session Laws of Hawaii 2003, as amended
5 by section 5 of Act 152, Session Laws of Hawaii 2007, by section
6 1 of Act 144, Session Laws of Hawaii 2008, and by section 3 of
7 Act 81, Session Laws of Hawaii 2009, is amended by amending the
8 definitions section, section 663- , Hawaii Revised Statutes, in
9 section 2 of Act 82 as follows:

10 (1) By adding a new definition to be appropriately
11 inserted and to read as follows:

12 "Voluntary trails" means trails, paths, or routes created
13 by hikers or other users of public land that are not part of an
14 official trail constructed, developed, or maintained by the
15 State or counties."

16 (2) By amending the definition of "improved public lands"
17 as amended by section 1 of Act 144, Session Laws of Hawaii 2008,
18 to read as follows:

S.B. NO. 2724

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"Improved public lands" means lands designated as part of the state park system, parks, and parkways under chapter 184, which are developed or maintained by the State, or as part of a county's park system, which are developed or maintained by the counties, and lands which are part of the Hawaii statewide trail and access system under chapter 198D, excluding buildings and structures constructed upon such lands. For purposes of this part, "improved public lands" excludes voluntary trails, created by users of the public lands that are not part of the statewide trail and access system, ocean and submerged lands [-], and any public beach park falling within section 663-1.56."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: 

BY REQUEST

S.B. NO. 2724

Report Title:

Public Land Liability

Description:

Amends and clarifies the definition of "improved public lands" for the limitation of liability for public entities based on the duty to warn of dangers on public lands.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC LAND LIABILITY.

PURPOSE: The purpose of this bill is to amend and clarify the definition of "improved public lands" in Act 82, Session Laws of Hawaii 2003.

MEANS: Amend Act 82, Session Laws of Hawaii 2003, as amended by section 5 of Act 152, Session Laws of Hawaii 2007, by section 1 of Act 144, Session Laws of Hawaii 2008, and by section 3 of Act 81, Session Laws of Hawaii 2009.

JUSTIFICATION: Act 82, Session Laws of Hawaii 2003, as currently written, does not distinguish between parks and trails constructed, owned, and maintained by the State and counties and other lands that, although part of the of the state park system, are unimproved and not maintained by the State or counties. This bill would clarify that the State or counties do not have a duty to warn of dangerous natural conditions on public land that is part of the park system, if the land is unimproved and not maintained by the State or county. This bill also defines and excludes "voluntary trails" from the definition of "improved public lands" since these unofficial trails and routes are created by members of the public without the knowledge or permission of the State or counties.

Impact on the public: The public in general will benefit from the increase in public safety as well as from the saving of public funds.

Impact on the department and other agencies:

The Department of Land and Natural Resources and the counties will benefit by having a more clear delineation of where warning signs should be placed which would allow them to make the best use of their limited financial resources.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Land and Natural Resources and the counties.

EFFECTIVE DATE: Upon approval.