
A BILL FOR AN ACT

RELATING TO PRIVATE PROPERTY.

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

1 SECTION 1. Chapter 520, Hawaii Revised Statutes, is
2 amended by designating sections 520-1 through 520-8 as "Part I.
3 Property Entered for Recreational Purposes", and by adding a new
4 part to be designated "Part II" and to read as follows:

5 **"PART II. PROPERTY ENTERED FOR IMPROVEMENTS OR REPAIRS**

6 **§520-9 Purpose.** The purpose of this part is to authorize
7 the owner of a residential dwelling, or the owner's agent, to
8 enter the private property of an abutting owner for the purpose
9 of making improvements or repairs to the entering owner's
10 dwelling under certain conditions; and to limit the abutting
11 owner's liability toward persons entering thereon for those
12 purposes.

13 **§520-10 Definitions.** As used in this part:

14 "Improvements or repairs" includes construction,
15 maintenance, painting, or roofing pertaining to an existing
16 residential dwelling.

17 "Owner" means the possessor of a fee interest or lessee.



1 "Property" includes land, roads, water, watercourses, and
2 private ways, but does not include buildings or structures.

3 §520-11 Authorized entry on private property by abutting
4 residential property owner. (a) Subject to subsection (b), the
5 owner of a residential dwelling, or the owner's agent, may enter
6 the private property of an abutting owner for the purpose of
7 making improvements or repairs to the entering owner's dwelling
8 if each of the following conditions are met:

9 (1) The improvements or repairs cannot reasonably be made
10 without entering the abutting property;

11 (2) The owner of the abutting property has refused
12 permission to enter the abutting property; and

13 (3) The entering owner has given prior notice to the chief
14 of police of the applicable county of the entering
15 owner's intent to enter an abutting property pursuant
16 to this part and has posted a bond of \$1,000 to
17 protect the abutting owner from damage caused by the
18 entry.

19 (b) The owner of a residential dwelling, or the owner's
20 agent, who enters the private property of an abutting owner



1 pursuant to subsection (a) shall be subject to the following
2 requirements:

3 (1) The entering owner or owner's agent shall enter or
4 remain on the abutting property only between the hours
5 of six a.m. and six p.m.;

6 (2) The entering owner or owner's agent shall reasonably
7 attempt to notify the owner of the abutting property
8 of the specific dates and times that the entering
9 owner or owner's agent intends to enter the abutting
10 property and remain there;

11 (3) The entering owner or owner's agent shall not store
12 material or tools on the abutting property between the
13 hours of six p.m. and six a.m.;

14 (4) The entering owner or owner's agent shall not enter
15 any structure on the abutting property;

16 (5) The improvements or repairs shall be completed in a
17 reasonable amount of time, which shall not exceed
18 thirty days in the aggregate in any calendar year; and

19 (6) Upon completion of the improvements or repairs, the
20 entering owner or owner's agent shall in all respects



1 restore the abutting property to the condition in
2 which it existed prior to the entry.

3 §520-12 Duty of care of owner limited. Except as
4 specifically recognized by or provided in section 520-13, an
5 owner of abutting property entered pursuant to this section owes
6 no duty of care to keep the premises safe for entry by an
7 entering owner or owner's agent, or to give any warning of a
8 dangerous condition, use, structure, or activity on those
9 premises to persons entering for the purpose authorized by this
10 section, or to persons entering for a purpose in response to an
11 entering owner or owner's agent who requires assistance, either
12 direct or indirect, including but not limited to rescue, medical
13 care, or other form of assistance.

14 §520-13 Exceptions to limitations Nothing in this part
15 limits in any way any liability that otherwise exists for wilful
16 or malicious failure to guard or warn against a dangerous
17 condition, use, or structure that the owner knowingly creates or
18 perpetuates and for wilful or malicious failure to guard or warn
19 against a dangerous activity that the owner knowingly pursues or
20 perpetuates.



1 §520-14 Rights. No person shall gain any rights to any
2 land by prescription or otherwise, as a result of any
3 authorization provided in this part."

4 SECTION 2. Section 520-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~4~~] §520-1[~~1~~] Purpose. The purpose of this [~~chapter~~] part
7 is to encourage owners of land to make land and water areas
8 available to the public for recreational purposes by limiting
9 their liability toward persons entering thereon for [~~such~~] those
10 purposes."

11 SECTION 3. Section 520-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§520-2 Definitions. As used in this [~~chapter~~] part:

14 "Charge" means the admission price or fee asked in return
15 for invitation or permission to enter or go upon the land.

16 "House guest" means any person specifically invited by the
17 owner or a member of the owner's household to visit at the
18 owner's home whether for dinner, or to a party, for conversation
19 or any other similar purposes including for recreation, and
20 includes playmates of the owner's minor children.



1 "Land" means land, roads, water, watercourses, private ways
2 and buildings, structures, and machinery or equipment when
3 attached to realty, other than lands owned by the government.

4 "Owner" means the possessor of a fee interest, a tenant,
5 lessee, occupant, or person in control of the premises.

6 "Recreational purpose" includes but is not limited to any
7 of the following, or any combination thereof: hunting, fishing,
8 swimming, boating, camping, picnicking, hiking, pleasure
9 driving, nature study, water skiing, winter sports, and viewing
10 or enjoying historical, archaeological, scenic, or scientific
11 sites.

12 "Recreational user" means any person who is on or about the
13 premises that the owner of land either directly or indirectly
14 invites or permits, without charge, entry onto the property for
15 recreational purposes."

16 SECTION 4. Section 520-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§520-5[+] Exceptions to limitations. Nothing in this
19 [~~chapter~~] part limits in any way any liability [~~which~~] that
20 otherwise exists:



(1) For wilful or malicious failure to guard or warn against a dangerous condition, use, or structure ~~[which]~~ that the owner knowingly creates or perpetuates and for wilful or malicious failure to guard or warn against a dangerous activity ~~[which]~~ that the owner knowingly pursues or perpetuates.

(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 recreational use thereof, except that in the case of land leased to the State or a political subdivision thereof, any consideration received by the owner for ~~[such]~~ that lease shall not be deemed a charge within the meaning of this section.

(3) For injuries suffered by a house guest while on the owner's premises, even though the injuries were incurred by the house guest while engaged in one or more of the activities designated in section ~~[+]~~ 520-2 ~~[+]~~."

SECTION 5. Section 520-6, Hawaii Revised Statutes, is amended to read as follows:



1 " ~~[+]~~ §520-6 ~~[+]~~ **Persons using land.** Nothing in this
2 ~~[chapter]~~ part shall be construed to:

3 (1) Create a duty of care or ground of liability for
4 injury to persons or property.

5 (2) Relieve any person using the land of another for
6 recreational purposes from any obligation ~~[which]~~ that
7 the person may have in the absence of this ~~[chapter]~~
8 part to exercise care in the person's use of ~~[such]~~
9 that land and in the person's activities thereon, or
10 from the legal consequences of failure to employ
11 ~~[such]~~ that care."

12 SECTION 6. Section 520-7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 " ~~[+]~~ §520-7 ~~[+]~~ **Rights.** No person shall gain any rights to
15 any land by prescription or otherwise, as a result of any usage
16 thereof for recreational purposes as provided in this ~~[chapter-]~~
17 part."

18 SECTION 7. Section 520-8, Hawaii Revised Statutes, is
19 amended to read as follows:

20 " ~~[+]~~ §520-8 ~~[+]~~ **Rules and regulations.** The department of
21 land and natural resources shall ~~[make]~~ adopt rules ~~[and]~~



1 regulations] pursuant to chapter 91, as it deems necessary to
2 carry out the purpose of this [~~chapter-~~] part."

3 SECTION 8. Section 708-816, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§708-816 Defense to trespass. It is a defense to
6 prosecution for trespass as a violation of sections 708-814 and
7 708-815 that the defendant:

8 (a) [~~entered~~] Entered upon and passed along or over
9 established and well-defined roadways, pathways, or
10 trails leading to public beaches over government
11 lands, whether or not under lease to private
12 persons [~~-~~]; or

13 (b) Lawfully entered private property for the purpose of
14 making improvements or repairs pursuant to part II of
15 chapter 520."

16 SECTION 9. New statutory material is underscored.

17 SECTION 10. This Act shall take effect upon its approval.

18

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Report Title:

Private Property; Entry Upon Abutting Property

Description:

Authorizes the owner of a residential dwelling to enter abutting private property to complete repairs or maintenance to the entering owner's dwelling under certain conditions.

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

