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# A BILL FOR AN ACT

RELATING TO TRESPASS.

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

1       SECTION 1. The legislature finds that visitor-guide  
2 websites and visitor-guide publications may encourage visitors  
3 to intrude onto private or public property to experience an  
4 attraction or activity. The representations made by these  
5 websites and publications potentially put visitors at risk by  
6 describing attractions or activities without adequately  
7 explaining the inherent dangers associated with them or that  
8 they are located on or require crossing private or public  
9 property from which the public is excluded, sometimes resulting  
10 in serious injury to or the death of the visitor.

11       The legislature further finds that because of the publicity  
12 from and encouragement by visitor-guide websites and visitor-  
13 guide publications, private and public landowners may be unable  
14 to reasonably prevent intruders from traveling on or through  
15 their land to gain access to the dangerous attraction or  
16 activity.



1 Accordingly, the purpose of this Act is to:

- 2 (1) Apply a duty to warn to authors or publishers of  
3 visitor-guide websites or visitor-guide publications  
4 describing attractions to warn the public of dangerous  
5 conditions typical to the area; provided that a  
6 publisher shall only have such a duty if the publisher  
7 participates in the authoring of the website;
- 8 (2) Require the authors or publishers to defend and  
9 indemnify the owner or occupier of the private or  
10 public land from any liability arising from injury to  
11 or the death of the person; and
- 12 (3) Create a task force to identify problem areas on all  
13 islands that pose a risk of serious injury or death to  
14 visitors.

15 PART I

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

19 "§663- Visitor-guide liability. (a) Any author or  
20 publisher of a visitor-guide website or visitor-guide  
21 publication describing attractions or activities on private or  
22 public land in the State from which the public is excluded shall



1 have a duty to warn the public of dangerous conditions typical  
2 of the area if the conditions pose a risk of serious injury or  
3 death, provided that a publisher shall have a duty to warn only  
4 if the publisher participates in authoring the website or  
5 publication.

6 (b) The author or publisher described in subsection (a)  
7 shall also defend and indemnify the owner or occupier of private  
8 or public land in the State from which the public is excluded in  
9 any cause of action or proceeding arising on account of serious  
10 injury or death.

11 (c) As used in this section:

12 "Land in the State from which the public is excluded" means  
13 any area fenced to prohibit entry by the general public, or  
14 posted with a sign stating "No Trespassing" or a substantially  
15 similar message.

16 "Visitor-guide publication" means any published book,  
17 pamphlet, magazine, handout, mailer, or advertisement, whether  
18 disseminated via hard copy or electronic distribution, that  
19 provides information about a visitor destination, geographic  
20 destination, or natural attraction on privately or publicly  
21 owned land in the State from which the public is excluded.

22 "Visitor-guide website" means any commercial:



1       (1) Travel-oriented website;  
2       (2) Social media wireless communication;  
3       (3) Forum;  
4       (4) Twitter account; or  
5       (5) Blog,  
6 that provides information about a visitor destination,  
7 geographic destination, or natural attraction on privately or  
8 publicly owned land in the State from which the public is  
9 excluded."

10                                   PART II

11       SECTION 3. (a) There is hereby created a task force, to  
12 be attached to the department of business, economic development,  
13 and tourism for administrative purposes, to identify and assess  
14 lands in all counties, featured currently or in the past in  
15 visitor-guide publications or websites, on which exist dangerous  
16 conditions posing a risk of serious injury or death.

17       (b) The task force shall consist of at least eight  
18 members, and shall be appointed by the president of the senate  
19 and the speaker of the house of representatives and shall  
20 include members representing the:

- 21       (1) Hawaii tourism authority;  
22       (2) Department of the attorney general;



1 (3) Department of land and natural resources;

2 (4) County police or fire departments with  
3 responsibilities for rescues and public safety;

4 (5) County visitor bureaus;

5 (6) Hawaii Farm Bureau Federation or county farm bureaus;

6 (7) Hawaii Cattlemen's Association; and

7 (8) Private landowners.

8 (c) The task force shall meet in large and small groups,  
9 as appropriate, to develop findings and recommendations to  
10 reduce the incidence of trespass over privately held or public  
11 lands to access remote or scenic destinations as the result of  
12 information published on visitor-guide websites and in visitor-  
13 guide publications.

14 (d) The legislative reference bureau may provide  
15 assistance to the task force in the compilation and publication  
16 of the findings and recommendations of the task force, but shall  
17 not provide administrative support to the task force.

18 (e) The task force shall submit a report to the  
19 legislature no later than twenty days prior to the convening of  
20 the regular session of 2012.

21 (f) The task force shall terminate on May 10, 2012.



1 PART III

2 SECTION 4. New statutory material is underscored.

3 SECTION 5. Part I of this Act shall take effect on January

4 7, 2059; provided that Part II of this Act 2 shall take effect

5 on January 7, 2060.



**Report Title:**

Visitor-guide Publications and Websites; Liability; Private and Public Lands

**Description:**

Holds authors and publishers of visitor websites and publications liable to readers who suffer injury or death as a result of being enticed to go onto private or public lands from which the public is excluded. Effective January 7, 2059.  
(HB548 HD3)

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

