RELATING TO TRESPASS.

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

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

The legislature further finds that because of the publicity from and encouragement by visitor-guide websites and visitor-guide publications, private and public landowners may be unable to reasonably prevent intruders from traveling on or through their land to gain access to the dangerous attraction or activity.
Accordingly, the purpose of this Act is to:

(1) Apply a duty to warn to authors or publishers of visitor-guide websites or visitor-guide publications describing attractions to warn the public of dangerous conditions typical to the area; provided that a publisher shall only have such a duty if the publisher participates in the authoring of the website;

(2) Require the authors or publishers to defend and indemnify the owner or occupier of the private or public land from any liability arising from injury to or the death of the person; and

(3) Create a task force to identify problem areas on all islands that pose a risk of serious injury or death to visitors.

PART I

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

§663- Visitor-guide liability. (a) Any author or publisher of a visitor-guide website or visitor-guide publication describing attractions or activities on private or public land in the State from which the public is excluded shall
have a duty to warn the public of dangerous conditions typical
of the area if the conditions pose a risk of serious injury or
death, provided that a publisher shall have a duty to warn only
if the publisher participates in authoring the website or
publication.

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

(c) As used in this section:

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

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

"Visitor-guide website" means any commercial:
Travel-oriented website;

Social media wireless communication;

Forum;

Twitter account; or

Blog,

that provides information about a visitor destination, geographic destination, or natural attraction on privately or publicly owned land in the State from which the public is excluded."

PART II

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

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

(1) Hawaii tourism authority;

(2) Department of the attorney general;
(3) Department of land and natural resources;
(4) County police or fire departments with responsibilities for rescues and public safety;
(5) County visitor bureaus;
(6) Hawaii Farm Bureau Federation or county farm bureaus;
(7) Hawaii Cattlemen's Association; and
(8) Private landowners.

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

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

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

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

SECTION 4. New statutory material is underscored.

SECTION 5. Part I of this Act shall take effect on January 7, 2059; provided that Part II of this Act shall take effect 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.