
A BILL FOR AN ACT

RELATING TO LIABILITY.

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

1 SECTION 1. Section 127A-9, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "~~§~~127A-9~~§~~ **Immunities; rights.** (a) None of the
4 following:
5 (1) The State;
6 (2) Any county;
7 (3) Any owner or operator of a public utility or critical
8 infrastructure facility;
9 (4) Private-sector or nonprofit organizations; or
10 (5) Except in cases of wilful misconduct, gross
11 negligence, or recklessness, persons engaged in
12 emergency management functions pursuant to this
13 chapter, including volunteers whose services are
14 accepted by any authorized person,
15 shall be civilly liable for the death of or injury to persons,
16 or property damage, as a result of any act or omission in the
17 course of the employment or duties under this chapter.



1 (b) Except in cases of willful misconduct, gross
2 negligence, or recklessness, a health care provider shall be
3 immune from civil or criminal liability if the health care
4 provider:

5 (1) Acts in good faith during a proclamation of a state of
6 emergency or local state of emergency, as declared by
7 the governor or mayor, respectively;

8 (2) Adheres to crisis standards of care, as reviewed and
9 approved by the department of health and adopted by
10 the agency; and

11 (3) The health care provider is engaged in emergent care
12 functions directly related to the declared state of
13 emergency or local state of emergency.

14 For the purposes of this subsection:

15 "Crisis standards of care" means a substantial change in
16 usual health care operations and the level of care it is
17 possible to deliver, which is made necessary by a pervasive or
18 catastrophic disaster, such as a pandemic influenza, earthquake,
19 or hurricane.

20 "Health care provider" means a physician, osteopathic
21 physician, surgeon, or physician assistant licensed under



1 chapter 453; a podiatrist licensed under chapter 463E; or a
 2 health care facility, as defined in section 323D-2; and the
 3 employees thereof. "Health care provider" does not include any
 4 nursing institution or nursing service conducted by and for
 5 those who rely upon treatment by spiritual means through prayer
 6 alone, or the employees of the institution or service.

7 "Substantial change in usual health care operations" means
 8 a change in the level of care delivered that is justified by
 9 specific circumstances via a formal declaration by a state or
 10 county government that:

- 11 (1) Recognizes that crisis operations will be in effect
 12 for a sustained period; and
- 13 (2) Enables specific powers and protections for health
 14 care providers in the necessary tasks of allocating
 15 and using scarce medical resources and implementing
 16 alternate care facility operations.

17 ~~[(b)]~~ (c) No act or omission shall be imputed to the owner
 18 of any vehicle by reason of the owner's ownership thereof;
 19 provided that nothing herein shall preclude recovery by any
 20 person for injury or damage sustained from the operation of any
 21 vehicle which may be insured under section 41D-8 to the extent



1 of the insurance, and, unless specifically provided, insurance
2 effected under section 41D-8 shall not include coverage of such
3 risk during an emergency period. The governor may insure
4 vehicles owned by the State or in the custody and use of the
5 Hawaii emergency management agency; provided that insurance
6 effected under section 41D-8 on vehicles used for purposes other
7 than emergency management shall not be required to include
8 coverage of the insured vehicle against the risk incurred or
9 which would be incurred under this chapter as a result of the
10 use of the insured vehicle for emergency management.

11 ~~[-(e)]~~ (d) Members of the United States Army, Air Force,
12 Navy, Marine Corps, or Coast Guard on any duty or service
13 performed under or in pursuance of an order or call of the
14 President of the United States or any proper authority, and the
15 National Guard from any other state ordered into service by any
16 proper authority, to assist civil authorities engaged in
17 emergency functions pursuant to this chapter shall not be
18 liable, civilly or criminally, for any act done or caused by
19 them in pursuance of duty in such service."



1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Immunity from Liability; Health Care Provider; State of
Emergency; Local State of Emergency; Crisis Standards of Care

Description:

Makes immune from civil or criminal liability a health care
provider who acts in good faith during a state of emergency or
local state of emergency and adheres to crisis standards of
care. Effective 7/1/2050. (HD2)

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not legislation or evidence of legislative intent.*

