STAND. COM. REP. NO. 707

Honolulu, Hawaii

Morch 6, 2009

RE: H.B. No. 1040 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fifth State Legislature Regular Session of 2009 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1040 entitled:

"A BILL FOR AN ACT RELATING TO TORT LIABILITY,"

begs leave to report as follows:

The purpose of this bill is to make permanent the law shielding county lifeguards from liability while providing lifeguard services on the beach or in the ocean.

The Department of the Attorney General, a member of the Maui County Council, a member of the Kauai County Council, Honolulu Emergency Services Department, County of Hawaii Office of the Corporation Counsel, Hawaii County Fire Department, Hawaii Council of Mayors, Hawaii Government Employees Association, Hawaiian Lifeguard Association, and a concerned individual supported this bill. The Department of Land and Natural Resources, Kauai Fire Department, and Department of the Corporation Counsel of the City and County of Honolulu supported this bill with amendments. The Hawaii Association for Justice opposed this bill.

Your Committee has amended this measure by adding a new part which repeals the sunset date of Act 82, Session Laws of Hawaii (SLH) 2003, as amended by Act 152, SLH 2007. This part makes permanent limited liability protections for the State and counties for incidents arising on improved public lands, provided that certain signage requirements are met.

HB1040 HD1 HSCR JUD HMS 2009-2649

In addition, your Committee has further amended this measure by:

- (1) Changing its effective date to January 1, 2046, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1040, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1040, H.D. 1.

Respectfully submitted on behalf of the members of the Committee on Judiciary,

Int. LARAMATSI Chair

State of Hawaii House of Representatives The Twenty-fifth Legislature

HSCR 707

Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral:	Date	7/- 6	1
HB 1040	MLOJUD		2/26,	109
☐ The committee is reconsidering its previous decision on the measure.				
The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold				
☐ Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KARAMATSU, Jon Riki (C)				
2. ITO, Ken (VC)				
3. BELATTI, Della Au				
4. CABANILLA, Rida				
5. CARROLL, Mele		i i Paraellalais da costo. Anna esta da como esta de costo de co		
6. HERKES, Robert N.				
7. LUKE, Sylvia				
8. McKELVEY, Angus L.K.				V
9. MIZUNO, John M.		and the supplier of the suppli		
10. MORITA, Hermina M. 11. OSHIRO, Blake K.				
12. SOUKI, Joseph M.				
13. TSUJI, Clift				
14. WAKAI, Glenn	100			
15. MARUMOTO, Barbara C.		r och programmer er	significant respective	Harris 181
16. THIELEN, Cynthia				
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TOTAL (16)	10			6
The recommendation is: Adopted Not Adopted				
If joint referral, did not support recommendation.				
commute acronym(s)				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				