

JAN 23 2015

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1 SECTION 1. The legislature finds that respiratory neck
2 restraints and vascular neck restraints, commonly referred to as
3 chokeholds, are two types of force that are sometimes used by
4 law enforcement officers to restrain a person. A "chokehold"
5 reduces or prevents either air or blood from passing through the
6 neck of the recipient and may lead to unconsciousness or even
7 death. This type of force has led to the deaths of suspects
8 around the nation. As a result, various cities now prohibit the
9 use of chokeholds by law enforcement officers as it is
10 imperative that the health of a suspect is safeguarded.

11 The purpose of this Act is to prohibit any employee
12 authorized to use physical force from using a respiratory neck
13 restraint or a vascular neck restraint as a method of force to
14 restrain a person.

15 SECTION 2. Chapter 52D, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:



1 "§52D- Respiratory neck restraint; vascular neck
2 restraint; prohibition. (a) Any employee authorized to use
3 physical force shall not use a respiratory neck restraint or a
4 vascular neck restraint as a method of force to restrain a
5 person during the exercise of the law enforcement officer's
6 powers, privileges, and authority necessary to enforce the laws
7 of the State.

8 (b) For purposes of this section:

9 "Respiratory neck restraint" means the use of direct
10 mechanical compression or pressure over the anterior structures,
11 including the trachea, of a person's neck.

12 "Vascular neck restraint" means the use of bilateral
13 compression of the carotid arteries and jugular veins on the
14 sides of a person's neck."

15 SECTION 3. Section 199-3, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The conservation and resources enforcement officers,
18 with respect to all state lands, including public lands, state
19 parks, forest reserves, forests, aquatic life and wildlife
20 areas, Kaho'olawe island reserve, and any other lands and waters
21 within the State, shall:



- (1) Enforce title 12, chapters 6D, 6E, and 6K, and rules adopted thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual aid agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits, and licenses issued by the department of land and natural resources;
- (6) Enforce the laws relating to firearms, ammunition, and dangerous weapons contained in chapter 134;



1 (7) Enforce the laws in chapter 291E relating to operating
2 a vessel on or in the waters of the State while using
3 intoxicants;

4 (8) Whether through a specifically designated marine
5 patrol or otherwise, enforce the rules in the areas of
6 boating safety, conservation, and search and rescue
7 relative to the control and management of boating
8 facilities owned or controlled by the State, ocean
9 waters, and navigable streams and any activities
10 thereon or therein, and beaches encumbered with
11 easements in favor of the public, and the rules
12 regulating vessels and their use in the waters of the
13 State; and

14 (9) Carry out other duties and responsibilities as the
15 board of land and natural resources from time to time
16 may direct[-];

17 provided that conservation and resources enforcement officers
18 shall not use a respiratory neck restraint or a vascular neck
19 restraint, as defined in section 52D- , as a method of force to
20 restrain a person during the exercise of their powers,
21 privileges, and authority."



1 SECTION 4. Section 266-24, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The director of transportation shall enforce this
4 chapter and all rules thereunder, except for the rules relative
5 to the control and management of the beaches encumbered with
6 easements in favor of the public and ocean waters which shall be
7 enforced by the department of land and natural resources. For
8 the purpose of the enforcement of this chapter and of all rules
9 adopted pursuant to this chapter, the powers of police officers
10 are conferred upon the director of transportation and any
11 officer, employee, or representative of the department of
12 transportation. Without limiting the generality of the
13 foregoing, the director and any person appointed by the director
14 hereunder may serve and execute warrants, arrest offenders, and
15 serve notices and orders. The director of transportation and
16 any employee, agent, or representative of the department of
17 transportation appointed as enforcement officers by the
18 director, and every state and county officer charged with the
19 enforcement of any law, statute, rule, regulation, ordinance, or
20 order, shall enforce and assist in the enforcement of this
21 chapter and of all rules and orders issued pursuant thereto, and



1 in carrying out the responsibilities hereunder, each shall be
2 specifically authorized to:

3 (1) Conduct any enforcement action hereunder in any
4 commercial harbor area and any area over which the
5 department of transportation and the director of
6 transportation has jurisdiction under this chapter;

7 (2) Inspect and examine at reasonable hours any premises,
8 and the buildings and other structures thereon, where
9 harbors or harbor facilities are situated, or where
10 harbor-related activities are operated or conducted;
11 and

12 (3) Subject to limitations as may be imposed by the
13 director of transportation, serve and execute
14 warrants, arrest offenders, and serve notices and
15 orders[-];

16 provided that the director of transportation and any employee,
17 agent, or representative of the department of transportation
18 appointed as an enforcement officer by the director shall not
19 use a respiratory neck restraint or a vascular neck restraint,
20 as defined in section 52D- , as a method of force to restrain a



1 person during the exercise of their powers, privileges, and
2 authority.

3 For purposes of this subsection, the term "agents and
4 representatives" includes persons performing services at harbors
5 or harbor areas under contract with the department of
6 transportation."

7 SECTION 5. Section 353C-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§353C-4 Appointment of employees with police powers and**
10 **other employees.** (a) The director may appoint employees to be
11 public safety officers who shall have all of the powers of
12 police officers; provided that the director may establish and
13 assign the employees to positions or categories of positions
14 that may have differing titles, specific duties, and limitations
15 upon the exercise of police powers.

16 (b) The director may appoint other personnel necessary to
17 carry out the functions of the department.

18 (c) The state law enforcement officers transferred from
19 the department of the attorney general by Act 211, Session Laws
20 of Hawaii 1989, shall be responsible for public safety in state
21 buildings as well as the personal protection of government



1 officials and employees while in the conduct of their duties.
2 The duties of state law enforcement officers shall also include
3 the service of process, including subpoenas, warrants, and other
4 legal documents, and other duties as the director may assign,
5 including the performance of duties of other public safety
6 officers within the department. State law enforcement officers
7 shall have all of the powers of police officers, including the
8 power of arrest.

9 (d) Public safety officers and state law enforcement
10 officers shall not use a respiratory neck restraint or vascular
11 neck restraint, as defined in section 52D- , as a method of
12 force to restrain a person during the exercise of their powers,
13 privileges, and authority."

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval.
17

INTRODUCED BY:

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S.B. NO. 185

Report Title:

Law Enforcement; Law Enforcement Agencies; Use of Force;
Respiratory Neck Restraint; Vascular Neck Restraint; Prohibition

Description:

Prohibits any state and county law enforcement agency employee from using a respiratory neck restraint or a vascular neck restraint as a method of force to restrain a person; and defines respiratory neck restraint and vascular neck restraint.

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