

JAN 19 2018

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1 SECTION 1. The legislature finds that providing lifeguard
2 services at beaches and in the ocean is vital to the health,
3 safety, and welfare of the public. Every day, residents and
4 tourists enjoy recreational activities on and the natural beauty
5 of the State's beaches. Lifeguards provide constant
6 surveillance of the dynamic ocean and changing beach conditions
7 to fulfill their duty to protect those in and close to the water
8 from danger. Like firefighters and emergency medical
9 technicians, lifeguards are first responders in emergencies.

10 While the protection of many of the State's public
11 resources and facilities, such as the airports, harbors, and
12 wildlife, are performed by state employed officers or guards
13 with enforcement or first responder powers, state beaches are
14 protected by county employed lifeguards. Accordingly, the
15 threat of potential tort liability has made some counties
16 reluctant to provide lifeguard services at some beaches. Thus,



1 some beaches were left without critical services to ensure
2 public safety at one of the State's most important assets.

3 In response to these concerns, the legislature passed
4 Act 170, Session Laws of Hawaii 2002, to provide limited tort
5 liability protection for county lifeguards and counties
6 providing lifeguard services on beaches or in the ocean, except
7 in cases of gross negligence or wanton acts or omissions. This
8 limited tort liability sunsetted on June 30, 2017. As a result,
9 county lifeguards are faced with potential tort liability in the
10 course of performing their lifeguard duties, which in turn, may
11 cause some beaches to become unsafe due to a lack of an on-duty
12 lifeguard.

13 The purpose of this Act is to reestablish the limited
14 liability protection for county lifeguards and counties
15 providing lifeguard services on beaches or in the ocean and to
16 make the law permanent.

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

20 "§663- Exception to liability for county lifeguard
21 services. (a) Notwithstanding any other law to the contrary, a



county lifeguard, the employing county, and the State shall not
be liable for any civil damages resulting from any act or
omission of the lifeguard while providing rescue, resuscitative,
or other lifeguard services on the beach or in the ocean in the
scope of employment as a county lifeguard. This exception from
liability, however, shall not apply when the claim for civil
damages results from a county lifeguard's gross negligence or
wanton act or omission.

(b) For purposes of this section:

"County lifeguard" means a person employed as a lifeguard
by a county of this State.

"Employing county" means the county employing a county
lifeguard."

SECTION 3. This Act does not affect rights and duties that
 matured, penalties that were incurred, and proceedings that were
 begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

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S.B. NO. 2679

Report Title:

Tort Liability; Immunity; County Lifeguards; Beaches; Ocean

Description:

Provides limited liability protection for county lifeguards and counties providing lifeguard services on beaches or in the ocean.

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