

JAN 17 2020

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1 SECTION 1. The liability protections afforded to
2 lifeguards in Act 170, Session Laws of Hawaii 2002, as amended
3 ("Act 170"), were repealed on June 30, 2017. Act 170 provided
4 liability protection for lifeguard services on the beach or in
5 the ocean, except for gross negligence or wanton acts or
6 omissions. This limited liability protection was made necessary
7 because some counties would not provide lifeguard services at
8 state beach parks due to concerns about liability. The
9 legislature finds that Act 170 created a climate in which
10 lifeguard services could be provided by the counties without
11 fear of liability and, therefore, was a life-saving measure that
12 should be reestablished.

13 The purpose of this Act is to permanently reinstate the
14 liability protections previously afforded for lifeguard
15 services.



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

4 "§663- Exception to liability for county lifeguard
5 services. (a) For the purpose of this section:

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

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

10 (b) Notwithstanding any other law to the contrary, neither
11 a county lifeguard, nor the employing county, nor the State
12 shall be liable for any civil damages resulting from any act or
13 omission of the lifeguard while providing rescue, resuscitative,
14 or other lifeguard services on the beach or in the ocean in the
15 scope of employment as a county lifeguard; provided that this
16 exception from liability shall not apply when the claim for
17 civil damages arises from a county lifeguard's alleged gross
18 negligence or wanton act or omission."

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



1 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: MM D. W
By Request



S.B. NO. 2198

Report Title:

Kauai County Package; State and County Tort Liability; Lifeguard Services

Description:

Makes an exemption from tort liability for the State and counties arising from lifeguard services, except for gross negligence or wanton acts or omissions.

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