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# A BILL FOR AN ACT

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RELATING TO LIFEGUARDS.

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

1       SECTION 1. The legislature finds that Act 170, Session  
2       Laws of Hawaii 2002, was enacted to provide immunity from  
3       liability for county lifeguards, the county that employs them,  
4       and the State, against damages arising from the acts or  
5       omissions of lifeguards while performing rescue, resuscitative,  
6       and other lifeguard duties. Act 170 was intended to provide the  
7       State and counties with qualified immunity so that lifeguards  
8       can be stationed at dangerous beaches, while appropriately  
9       limiting the immunity to acts or omissions committed while  
10      providing rescue or resuscitative actions or other emergency  
11      lifeguard services on the beach.

12       The legislature further finds that the Hawaii tort law  
13      study group was established in 1997 by Senate Concurrent  
14      Resolution No. 256 to study Hawaii's tort system. Regarding  
15      immunity, the group reported that "immunity is afforded to  
16      classes of persons or entities because it is in the public's  
17      best interest to do so," and conferring immunity upon a



1 particular class of persons is often based upon whether or not  
2 the social values attached to encouraging the behavior of that  
3 group are of such great importance as to merit extraordinary  
4 protection from suit.

5 The legislature notes that, among the criteria established  
6 by the group for reviewing requests for immunity were  
7 considerations that individuals engaging in inherently dangerous  
8 activities need to accept personal responsibility for their  
9 activities and that the legislature, in determining whether or  
10 not to grant immunity, should weigh the costs to the public of  
11 not granting immunity.

12 The legislature recognizes that Act 170 was enacted with a  
13 sunset provision to allow for "evaluation of this measure after  
14 sufficient experience has been obtained." Act 152, Session Laws  
15 of Hawaii 2007, extended the Act until July 30, 2010; and  
16 Act 81, Session Laws of Hawaii 2009, extended the Act until June  
17 30, 2014, noting that Act 170 "created a climate in which  
18 lifeguard services could be provided by the counties without  
19 fear of liability[.]"

20 Accordingly, the purpose of this Act is to make liability  
21 exemptions for certain lifeguard services permanent.



1           SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§663-1.5 Exception to liability.** (a) Any person who in  
4 good faith renders emergency care, without remuneration or  
5 expectation of remuneration, at the scene of an accident or  
6 emergency to a victim of the accident or emergency shall not be  
7 liable for any civil damages resulting from the person's acts or  
8 omissions, except for such damages as may result from the  
9 person's gross negligence or wanton acts or omissions.

10           (b) No act or omission of any rescue team or physician  
11 working in direct communication with a rescue team operating in  
12 conjunction with a hospital or an authorized emergency vehicle  
13 of the hospital or the State or county, while attempting to  
14 resuscitate any person who is in immediate danger of loss of  
15 life, shall impose any liability upon the rescue team, the  
16 physicians, or the owners or operators of such hospital or  
17 authorized emergency vehicle, if good faith is exercised.

18           This section shall not relieve the owners or operators of  
19 the hospital or authorized emergency vehicle of any other duty  
20 imposed upon them by law for the designation and training of  
21 members of a rescue team or for any provisions regarding



1 maintenance of equipment to be used by the rescue team or any  
2 damages resulting from gross negligence or wanton acts or  
3 omissions.

4 (c) Any physician or physician assistant licensed to  
5 practice under the laws of this State or any other state who in  
6 good faith renders emergency medical care in a hospital to a  
7 person, who is in immediate danger of loss of life, without  
8 remuneration or expectation of remuneration, shall not be liable  
9 for any civil damages, if the physician or physician assistant  
10 exercises that standard of care expected of similar physicians  
11 or physician assistants under similar circumstances. Any  
12 physician who supervises a physician assistant providing  
13 emergency medical care pursuant to this section shall not be  
14 required to meet the requirements set forth in chapter 453  
15 regarding supervising physicians.

16 (d) Any person or other entity who as a public service  
17 publishes written general first aid information dealing with  
18 emergency first aid treatment, without remuneration or  
19 expectation of remuneration for providing this public service,  
20 shall not be liable for any civil damages resulting from the



1 written publication of such first aid information except as may  
2 result from its gross negligence or wanton acts or omissions.

3 (e) Any person who in good faith, without remuneration or  
4 expectation of remuneration, attempts to resuscitate a person in  
5 immediate danger of loss of life when administering any  
6 automated external defibrillator, regardless of where the  
7 automated external defibrillator that is used is located, shall  
8 not be liable for any civil damages resulting from any act or  
9 omission except as may result from the person's gross negligence  
10 or wanton acts or omissions.

11 Any person, including an employer, who provides for an  
12 automated external defibrillator or an automated external  
13 defibrillator training program shall not be vicariously liable  
14 for any civil damages resulting from any act or omission of the  
15 persons or employees who, in good faith and without remuneration  
16 or the expectation of remuneration, attempt to resuscitate a  
17 person in immediate danger of loss of life by administering an  
18 automated external defibrillator, except as may result from a  
19 person's or employer's gross negligence or wanton acts or  
20 omissions.



1           (f) Any physician or physician assistant who administers  
2 an automated external defibrillator program without remuneration  
3 or expectation of remuneration shall not be liable for any civil  
4 damages resulting from any act or omission involving the use of  
5 an automated external defibrillator, except as may result from  
6 the physician's or physician assistant's gross negligence or  
7 wanton acts or omissions.

8           (g) Any person who in good faith, without remuneration or  
9 expectation of remuneration, attempts to rescue a person in  
10 immediate danger of loss of life by use of a rescue tube,  
11 regardless of where the rescue tube that is used is located,  
12 shall not be liable for any civil damages resulting from any act  
13 or omission except as may result from the person's gross  
14 negligence or wanton acts or omissions.

15           The owner or operator of any premises, property, or  
16 facility that is adjacent to navigable waters, where a rescue  
17 tube is located shall not be liable for any civil damages  
18 resulting from any act or omission relating to the storage,  
19 maintenance, or use of the rescue tube.

20           (h) This section shall not relieve any person, physician,  
21 physician assistant, or employer of:



1 (1) Any other duty imposed by law regarding the  
2 designation and training of persons or employees;

3 (2) Any other duty imposed by provisions regarding the  
4 maintenance of equipment to be used for resuscitation;  
5 or

6 (3) Liability for any damages resulting from gross  
7 negligence, or wanton acts or omissions.

8 (i) Any person qualified as a county lifeguard who renders  
9 rescue, resuscitative, or other lifeguard services, without  
10 remuneration or expectation of remuneration, on a beach or in  
11 the ocean in the scope of the person's employment as a county  
12 lifeguard, shall not be liable, and the employing county shall  
13 not be liable, for any civil damages resulting from the person's  
14 act or omissions while providing rescue, resuscitative, or other  
15 lifeguard services, except as may result from the person's gross  
16 negligence or wanton acts or omissions.

17 ~~[(i)]~~ (j) For the purposes of this section:

18 "Automated external defibrillator program" means an  
19 appropriate training course that includes cardiopulmonary  
20 resuscitation and proficiency in the use of an automated  
21 external defibrillator.



1 "Good faith" includes but is not limited to a reasonable  
2 opinion that the immediacy of the situation is such that the  
3 rendering of care should not be postponed.

4 "Rescue team" means a special group of physicians, basic  
5 life support personnel, advanced life support personnel,  
6 surgeons, nurses, volunteers, or employees of the owners or  
7 operators of the hospital or authorized emergency vehicle who  
8 have been trained in basic or advanced life support and have  
9 been designated by the owners or operators of the hospital or  
10 authorized emergency vehicle to attempt to provide such support  
11 and resuscitate persons who are in immediate danger of loss of  
12 life in cases of emergency.

13 "Rescue tube" means a flotation device used for water  
14 rescues that helps support the victim's and rescuer's weight."

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

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.





H.B. NO. 1447

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

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INTRODUCED BY:



By Request

JAN 18 2022



# H.B. NO. 1447

**Report Title:**

Hawaii State Association of Counties Package; Lifeguards;  
Liability; Counties; Civil Damages

**Description:**

Provides that any person qualified as a county lifeguard who renders rescue, resuscitative, or other lifeguard services, without remuneration or expectation of remuneration, on a beach or in the ocean in the scope of the person's employment as a county lifeguard, shall not be liable, and the employing county shall not be liable, for any civil damages resulting from the person's act or omissions while providing rescue, resuscitative, or other lifeguard services, except as may result from the person's gross negligence or wanton acts or omissions.

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