
A BILL FOR AN ACT

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 (Act 170), was enacted to provide immunity
3 from liability for county lifeguards, the county that employs
4 them, 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, House Draft 1, Regular Session of 1997, to
15 study Hawaii's tort system. Regarding immunity, the group
16 reported that "immunity is afforded to classes of persons or
17 entities because it is in the public's best interest to do so,"



1 and conferring immunity upon a particular class of persons is
2 often based upon whether the social values attached to
3 encouraging the behavior of that group are of such great
4 importance as to merit extraordinary 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 to
10 grant immunity, should weigh the costs to the public of not
11 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 Act 170 until June 30, 2010; and Act
16 81, Session Laws of Hawaii 2009, extended Act 170 until June 30,
17 2014, noting that Act 170 "created a climate in which lifeguard
18 services could be provided by the counties without fear of
19 liability[.]"

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



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

"§663- Exception to liability for county lifeguard 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 county 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; provided that this exception from liability shall not apply when the claim for civil damages results from a county lifeguard's gross negligence or wanton act or omission.

(b) For the 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.



- 1 SECTION 4. New statutory material is underscored.
- 2 SECTION 5. This Act shall take effect upon its approval.
- 3



Report Title:

Lifeguards; Liability; Exception; Counties; Civil Damages

Description:

Exempts county lifeguards, the employing counties, and the State from liability for any civil damages resulting from any act or omission of the county lifeguard while providing lifeguard services unless the civil damages result from a county lifeguard's gross negligence or wanton act or omission. (HD1)

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