

JAN 19 2022

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, 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.



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

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

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

This section shall not relieve the owners or operators of the hospital or authorized emergency vehicle of any other duty imposed upon them by law for the designation and training of 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) Any other duty imposed by law regarding the designation and training of persons or employees;

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

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

(i) 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.

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

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



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

2

INTRODUCED BY: *Paula C. ...*
By Request



S.B. NO. 2050

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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

