

---

---

# A BILL FOR AN ACT

RELATING TO LIABILITY.

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

1           SECTION 1. Section 127A-9, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "~~§127A-9~~ **Immunities; rights.** (a) None of the  
4 following:  
5           (1) The State;  
6           (2) Any county;  
7           (3) Any owner or operator of a public utility or critical  
8           infrastructure facility;  
9           (4) Private-sector or nonprofit organizations; or  
10           (5) Except in cases of wilful misconduct, gross  
11           negligence, or recklessness, persons engaged in  
12           emergency management functions pursuant to this  
13           chapter, including volunteers whose services are  
14           accepted by any authorized person,  
15 shall be civilly liable for the death of or injury to persons,  
16 or property damage, as a result of any act or omission in the  
17 course of the employment or duties under this chapter.



1        (b) A health care provider shall be immune from civil or  
2 criminal liability if the health care provider:

3        (1) Acts in good faith during a proclamation of a state of  
4 emergency or local state of emergency, as declared by  
5 the governor or mayor, respectively; and

6        (2) Adheres to crisis standards of care, as reviewed and  
7 approved by the department of health and adopted by  
8 the agency.

9        For the purposes of this subsection:

10       "Crisis standards of care" means a substantial change in  
11 usual health care operations and the level of care it is  
12 possible to deliver, which is made necessary by a pervasive or  
13 catastrophic disaster, such as a pandemic influenza, earthquake,  
14 or hurricane.

15       "Substantial change in usual health care operations" means  
16 a change in the level of care delivered that is justified by  
17 specific circumstances via a formal declaration by a state or  
18 county government that:

19       (1) Recognizes that crisis operations will be in effect  
20 for a sustained period; and



1        (2) Enables specific powers and protections for health  
 2            care providers in the necessary tasks of allocating  
 3            and using scarce medical resources and implementing  
 4            alternate care facility operations.

5        [~~(b)~~] (c) No act or omission shall be imputed to the owner  
 6 of any vehicle by reason of the owner's ownership thereof;  
 7 provided that nothing herein shall preclude recovery by any  
 8 person for injury or damage sustained from the operation of any  
 9 vehicle which may be insured under section 41D-8 to the extent  
 10 of the insurance, and, unless specifically provided, insurance  
 11 effected under section 41D-8 shall not include coverage of such  
 12 risk during an emergency period. The governor may insure  
 13 vehicles owned by the State or in the custody and use of the  
 14 Hawaii emergency management agency; provided that insurance  
 15 effected under section 41D-8 on vehicles used for purposes other  
 16 than emergency management shall not be required to include  
 17 coverage of the insured vehicle against the risk incurred or  
 18 which would be incurred under this chapter as a result of the  
 19 use of the insured vehicle for emergency management.

20        [~~(e)~~] (d) Members of the United States Army, Air Force,  
 21 Navy, Marine Corps, or Coast Guard on any duty or service



1 performed under or in pursuance of an order or call of the  
2 President of the United States or any proper authority, and the  
3 National Guard from any other state ordered into service by any  
4 proper authority, to assist civil authorities engaged in  
5 emergency functions pursuant to this chapter shall not be  
6 liable, civilly or criminally, for any act done or caused by  
7 them in pursuance of duty in such service."

8 SECTION 2. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

Immunity from Liability; Health Care Provider; State of  
Emergency; Local State of Emergency; Crisis Standards of Care

**Description:**

Makes immune from civil or criminal liability a health care  
provider who acts in good faith during a state of emergency or  
local state of emergency and adheres to crisis standards of  
care. Effective 7/1/2050. (HD1)

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

