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# A BILL FOR AN ACT

RELATING TO ABOLITION OF JOINT AND SEVERAL LIABILITY FOR  
GOVERNMENT ENTITIES IN HIGHWAY-RELATED CIVIL ACTIONS.

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

1           SECTION 1. The purpose of this Act is to abolish joint and  
2 several liability for government entities in claims and cases  
3 relating to the maintenance and design of highways including  
4 actions involving guardrails, utility poles, street and  
5 directional signs, and any other highway-related device under  
6 chapter 663, Hawaii Revised Statutes, so that government  
7 entities would only be liable for the percentage share of the  
8 damages actually attributable to the government entities in  
9 applicable claims and cases.

10           SECTION 2. Section 663-10.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12           "(a) ~~[Any]~~ Notwithstanding any other law to the contrary  
13 ~~[notwithstanding]~~, including but not limited to sections  
14 663-10.9, 663-11 to 663-13, 663-16, 663-17, and 663-31, in any  
15 case where a government entity is determined to be a tortfeasor  
16 along with one or more other tortfeasors, the government entity



1 shall be liable for [~~no~~] not more than that percentage share of  
2 the damages attributable to the government entity[~~; provided~~  
3 ~~that joint and several liability shall be retained for tort~~  
4 ~~claims relating to the maintenance and design of highways~~  
5 ~~pursuant to section 663-10.9]."~~

6 SECTION 3. Section 663-10.9, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§663-10.9 Abolition of joint and several liability;**  
9 **exceptions.** Joint and several liability for joint tortfeasors  
10 as defined in section 663-11 is abolished except in the  
11 following circumstances:

- 12 (1) For the recovery of economic damages against joint  
13 tortfeasors in actions involving injury or death to  
14 persons;
- 15 (2) For the recovery of economic and noneconomic damages  
16 against joint tortfeasors in actions involving:
- 17 (A) Intentional torts;
- 18 (B) Torts relating to environmental pollution;
- 19 (C) Toxic and asbestos-related torts;
- 20 (D) Torts relating to aircraft accidents;
- 21 (E) Strict and products liability torts; or



1 (F) Torts relating to motor vehicle accidents [~~except~~  
2 ~~as provided in paragraph (4)~~]; and

3 (3) For the recovery of noneconomic damages in actions,  
4 other than those enumerated in paragraph (2),  
5 involving injury or death to persons against those  
6 tortfeasors whose individual degree of negligence is  
7 found to be twenty-five per cent or more under  
8 section 663-31. Where a tortfeasor's degree of  
9 negligence is less than twenty-five per cent, then the  
10 amount recoverable against that tortfeasor for  
11 noneconomic damages shall be in direct proportion to  
12 the degree of negligence assigned; [~~and~~

13 ~~(4) For the recovery of noneconomic damages in motor~~  
14 ~~vehicle accidents involving tort actions relating to~~  
15 ~~the maintenance and design of highways including~~  
16 ~~actions involving guardrails, utility poles, street~~  
17 ~~and directional signs, and any other highway-related~~  
18 ~~device upon a showing that the affected joint~~  
19 ~~tortfeasor was given reasonable prior notice of a~~  
20 ~~prior occurrence under similar circumstances to the~~  
21 ~~occurrence upon which the tort claim is based. In~~



1           ~~actions in which the affected joint tortfeasor has not~~  
2           ~~been shown to have had such reasonable prior notice,~~  
3           ~~the recovery of noneconomic damages shall be as~~  
4           ~~provided in paragraph (3).~~

5           (5) ~~Provided, however,]~~ provided that joint and several  
6           liability for economic and noneconomic damages for  
7           claims against design professionals, as defined in  
8           ~~[chapter 672,]~~ section 663-10.98, and certified public  
9           accountants, as defined in chapter 466, is abolished  
10          in actions not involving physical injury or death to  
11          persons."

12          SECTION 4. This Act does not affect rights and duties that  
13          matured, penalties that were incurred, and proceedings that were  
14          begun before its effective date.

15          SECTION 5. Statutory material to be repealed is bracketed  
16          and stricken. New statutory material is underscored.

17          SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Joint and Several Liability; Repeal; Government Entities;  
Highway-Related Civil Actions

**Description:**

Abolishes joint and several liability for government entities in claims and cases relating to the maintenance and design of highways. Makes government entities liable only for the percentage share of the damages actually attributable. Effective 7/1/2050. (SD1)

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

