

ACT 285

S.B. NO. 989

A Bill for an Act Relating to Torts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§302A- Use of school grounds; assumption of risk. (a)¹ Any person who enters school grounds for the purposes of using the school’s grounds, facilities, or equipment for recreational purposes, and who is not a student or member of the faculty or administration of that school, is deemed to assume the risk of liability for any injuries or death resulting from the use of the grounds, facilities, or equipment. This assumption of risk shall not apply if:

- (1) The person is an invitee or licensee to whom a duty of care is owed by the school; provided that the person has received prior written authorization from the school principal or other responsible person to use the school’s grounds, facilities, or equipment; or
- (2) The injuries or death were caused by wilful or wanton misconduct, including but not limited to the wilful or malicious failure to guard or warn against a dangerous condition, use, or structure which was knowingly created or perpetuated, and wilful or malicious failure to guard or warn against a dangerous activity which was knowingly perpetuated.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.²

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 1997.)

Notes

- 1. No subsection (b).
- 2. Edited pursuant to HRS §23G-16.5.