

ACT 105

S.B. NO. 3156

A Bill for an Act Relating to Emergency Medical Services.

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

SECTION 1. The purpose of this Act is to clarify that the State is not liable for the decision to establish or not establish emergency aeromedical services in any particular county or counties, as provided in section 321-224, Hawaii Revised Statutes, which was enacted in 2003. The legislature feels that the decision to establish or not establish emergency aeromedical services in any county or counties is viewed as a discretionary function of government and, as such, the State is immune from liability. Although both statutory and case law appear to be clear, because of the urgency to establish this service in Maui county, to eliminate any doubt, this Act expressly provides that the State shall not be liable for claims based on the failure to establish emergency aeromedical services in every county of the State.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVIII to be appropriately designated and to read as follows:

“§321- Immunity and limitation on liability for emergency aeromedical services. The State shall not be liable for any claim of injury or death based on a failure to establish or continue emergency aeromedical services in any part of the State or in any county, including the failure of the department of health to establish emergency aeromedical services.”

SECTION 3. New statutory material is underscored.¹

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

(Approved June 9, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.