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# A BILL FOR AN ACT

RELATING TO CIVIL DEFENSE.

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

1 PART I

2 SECTION 1. It is the policy of this State that civil  
3 defense functions of the State should be coordinated to the  
4 maximum extent with private agencies, federal and county  
5 governments, and nonprofit organizations to address natural and  
6 man-made disasters or related emergencies. The legislature  
7 recognizes that the laws, agencies, and practices at the federal  
8 level have evolved and changed. The Civil Defense Act of 1950  
9 was repealed and subsequently replaced with the Robert T.  
10 Stafford Disaster Relief and Emergency Assistance Act. Federal  
11 agencies have been realigned with a corresponding change in  
12 responsibilities and practices. The legislature finds that  
13 there is a need to bring Hawaii's civil defense laws into  
14 conformity with current federal laws, as well as implement best  
15 practices to ensure our state is fully prepared.

16 SECTION 2. Section 128-1, Hawaii Revised Statutes, is  
17 amended to read as follows:

1           "**§128-1 Policy and purposes.** (a) Because of the  
2 importance of the State as a strategic defense area, the  
3 dependence of the State upon seaborne commerce for food supplies  
4 and other commodities essential to the public health, safety,  
5 and welfare and to the economic life of its people, the danger  
6 of shortages of such supplies and commodities, and other  
7 emergency conditions affecting the readiness of this community  
8 ~~[to do its part in the existing national emergency which was~~  
9 ~~declared by the President on December 16, 1950,]~~ to respond to  
10 any attack, disaster, or emergency, and the possibility of  
11 disasters or emergencies of great destructiveness resulting from  
12 fire, flood, tidal wave tsunami, volcanic eruption, earthquake,  
13 hurricane, or other natural causes and disasters or emergencies  
14 caused by acts of man, including but not limited to, massive oil  
15 spills, nuclear accidents, airplane crashes, civil disturbances,  
16 terrorism, enemy attack, sabotage, or other hostile action,  
17 therefore in order to [~~insure~~] ensure that preparations of this  
18 State [~~and the government provided for this State~~] will be  
19 adequate to deal with disasters or emergencies, to make adequate  
20 provision against such shortages, to maintain the strength,  
21 resources, and economic life of the community and provide for  
22 prompt and effective action, as the circumstances develop and in

1 cooperation with the federal government, to further and promote  
2 the national defense and civil defense and to protect the public  
3 health, safety, and welfare, the provisions of this chapter are  
4 hereby found and declared to be necessary.

5 (b) It is [~~further declared to be~~] a purpose of this  
6 chapter and a policy of the State that all civil defense  
7 functions of this State be coordinated to the maximum extent  
8 with the comparable functions of the federal government  
9 including its various departments and agencies, with those of  
10 other states and localities, and with those of private agencies  
11 of every type, to the end that the most effective preparation  
12 and use may be made of all personnel, resources, and facilities  
13 for dealing with any disaster or emergency that may occur. It  
14 [~~further~~] is the intent of the legislature that all other  
15 emergency functions be coordinated to the maximum extent with  
16 the comparable functions of the federal government, its  
17 departments and agencies.

18 (c) It is [~~declared to be~~] the further intent of the  
19 legislature to provide for and confer comprehensive powers [~~for~~  
20 ~~the purposes stated.~~] as provided herein. This chapter shall be  
21 liberally construed to effectuate its purposes[~~7~~]; provided that  
22 this chapter shall not be construed as conferring any power or

1 permitting any action which is inconsistent with the  
2 Constitution and laws of the United States, but, in so  
3 construing this chapter, due consideration shall be given to the  
4 circumstances as they exist from time to time. [~~This chapter  
5 shall not be deemed to have been amended by an act hereafter  
6 enacted at the same or any other session of the legislature,  
7 unless this chapter is amended by express reference hereto.~~]"

8 SECTION 3. Section 128-2, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§128-2 Definitions.** When used in this chapter, unless  
11 the context otherwise requires:

12 ""Attack" means any attack or series of attacks by an enemy  
13 of the United States or any domestic or international terrorist  
14 or terrorist group or entity causing, or which may cause, damage  
15 or injury to civilian property or persons in the United States  
16 in any manner by the use of bombs, shellfire, or atomic,  
17 radiological, chemical, bacteriological, or biological means or  
18 other weapons or processes; sabotage; and any form of hostile  
19 action[+]. "Attack" includes "disaster" and "emergency."

20 "Blackout" includes, but is not limited to, the effective  
21 screening or extinguishing of lights and lighting devices and  
22 appliances[+].



1 "Civil defense" means the preparation for and the carrying  
2 out of all functions, other than functions for which military  
3 forces are primarily responsible, to prevent, minimize, and  
4 repair injury and damage resulting, or which would result, from  
5 disasters caused by an attack[-], emergency, or disaster. The  
6 disasters include without limitation those that result from or  
7 arise out of action in resisting or combating an attack or  
8 apparent attack. Civil defense functions include all those  
9 provided for by this chapter which are for the purposes stated  
10 in this paragraph and, without limitation, fire fighting  
11 services, police services, medical and health services, rescue  
12 engineering, air raid warning services, communications,  
13 radiological, chemical, and other special weapons defense,  
14 evacuation of persons from stricken or danger areas, or from  
15 security areas established by or under authority of the United  
16 States, emergency housing and other emergency welfare services,  
17 emergency transportation, protection of important installations,  
18 and other functions related to civilian protection, together  
19 with all other activities necessary or incidental to the  
20 preparation for and carrying out of the foregoing functions.  
21 "Civil defense" is deemed to encompass, but is not limited to,  
22 all those activities and measures which, by the Federal Civil



1 damage of sufficient severity and magnitude to warrant  
2 assistance under this chapter to supplement the efforts and  
3 available resources of local governments and state agencies, and  
4 disaster relief organizations in alleviating the damage, loss,  
5 hardship, or suffering caused therefrom.

6 "Emergency" means any occasion or instance for which, in  
7 the determination of the governor, state assistance is necessary  
8 to supplement the efforts and capabilities of local governments  
9 and state agencies to save lives and to protect property and the  
10 public health and safety, or to lessen or avert the threat of a  
11 catastrophe in any part of the State.

12 "Emergency functions" means civil defense powers and  
13 functions and all other powers and functions provided for by  
14 this chapter[+].

15 "Facilities", except as otherwise provided in this chapter,  
16 includes buildings and other structures, shelters, land, and  
17 appurtenant materials[+].

18 "Federal Civil Defense Act of 1950" means Public Law 920,  
19 81st Congress, 2d Session, chapter 1228, as the same may be  
20 amended or supplemented from time to time[+].

21 "Federal program" means a program of the federal  
22 government, its departments, and agencies, for emergency

1 management, homeland security, homeland defense, rationing or  
2 conservation of materials, supplies, commodities, equipment, or  
3 facilities, for assigning priorities with respect thereto, for  
4 price control thereof, for wage controls, for the mobilization  
5 of personnel, for alien property control or control of trading  
6 with the enemy, for the welfare of veterans, for defense  
7 production, construction, or transportation, or any program or  
8 function of the department of defense [~~or the federal civil~~  
9 ~~defense administration,~~], the federal department of homeland  
10 security and any of its agencies.

11 "Highways" have the meaning as defined by section 264-1,  
12 and further include all public rights of way, whether or not  
13 included in the definition[+].

14 "Laws" includes ordinances, and rules, regulations, and  
15 orders prescribed under laws or ordinances and having the force  
16 and effect of law[+].

17 "Local organization for civil defense" means an  
18 organization created in accordance with this chapter to perform  
19 civil defense functions in a political subdivision of the  
20 State[+].





1 "Materials" includes medicines, supplies, products,  
2 commodities, articles, equipment, machinery, and component  
3 parts[+].

4 "Mobile support unit" means an organization for civil  
5 defense created in accordance with this chapter to be dispatched  
6 to supplement local organizations for civil defense in stricken  
7 areas[+].

8 "Necessary" means and refers to such means, measures, or  
9 other actions or determinations as are necessary in the opinion  
10 of the governor, or the governor's authorized representative[+].

11 "Political subdivisions" means the counties of Hawaii,  
12 Maui, and Kauai, and the city and county of Honolulu[+].

13 "Protective device", without prejudice to any other meaning  
14 associated with the word, includes any article or substance used  
15 or useful in the protection of persons or property[+].

16 "Shelter" without prejudice to any other meaning associated  
17 with the word, includes any structure, excavation, or other  
18 shelter used or useful in the protection of persons or property;

19 "States" includes the several states, the District of  
20 Columbia, and the possessions of the United States, and also  
21 includes, for the purposes of section 128-10(1) and (3), the  
22 State of Hawaii, and to the extent authorized by or under

1 federal law, foreign countries and their provinces and  
2 states[+].

3 "Traffic control" includes plans and regulations for the  
4 control of traffic to provide for the rapid and safe movements  
5 or evacuation over highways of people, troops, or vehicles and  
6 materials for civil defense or national defense or for use in  
7 any defense industry, and for the movement and cessation of  
8 movement of pedestrians and vehicular traffic during, before and  
9 after blackouts, drills, alerts, or attacks."

10 SECTION 4. Section 128-7, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§128-7 Civil defense emergency period.** (a) The term  
13 "civil defense emergency period", as defined in section 128-2,  
14 includes [a]:

15 (1) A period of civil defense emergency [proclaimed  
16 pursuant to the Federal Civil Defense Act of 1950,  
17 lawfully proclaimed by the President or the Congress,  
18 if so proclaimed on a national basis or for any  
19 geographic area that includes the State; or

20 (2) [the] The period of the existence of a state of civil  
21 defense emergency in the State [hereby] authorized to  
22 be proclaimed by the governor if the governor finds



1 that an attack upon the State, or an emergency or  
 2 disaster within the State, has occurred or that there  
 3 is danger or threat thereof, or that there has arisen  
 4 any state of affairs or circumstances of such a grave  
 5 nature as to affect the common defense or the  
 6 readiness of the community to meet an attack,  
 7 emergency, or disaster, and which requires the  
 8 invocation of provisions of this chapter [~~that are~~  
 9 ~~effective only during a period of civil defense~~  
 10 emergency].

11 (b) The governor shall be the sole judge of the existence  
 12 of the danger, threat, state of affairs, or circumstances. A  
 13 period of [~~civil defense~~] emergency proclaimed pursuant to [~~the~~  
 14 ~~Federal Civil Defense Act of 1950~~] federal law shall terminate  
 15 as therein provided, and a period of [~~civil defense~~] emergency  
 16 proclaimed by the governor shall terminate upon proclamation by  
 17 the governor."

18 PART II

19 SECTION 5. The legislature finds that there is a need to  
 20 clarify the law regarding the liability of a healthcare facility  
 21 operator when the operator permits the use of the facility for  
 22 sheltering persons, including patients and persons in the

1 facility's care or custody, during disasters and emergencies.  
2 The legislature recognizes that there is a shortage of shelter  
3 space in Hawaii and that the healthcare facility industry should  
4 be encouraged to assist in the sheltering of patients,  
5 residents, employees and family members, and others during  
6 disasters and emergencies. Under current law, it is unclear  
7 whether a healthcare facility operator is able to comply with  
8 the requirements of section 128-19, Hawaii Revised Statutes when  
9 providing shelter to patients or residents.

10 The purpose of this part is to clarify that compensation  
11 received by a healthcare facility operator for the care of  
12 patients or residents is not considered compensation for  
13 purposes of section 128-19, Hawaii Revised Statutes, if the  
14 healthcare facility is operating in accordance with applicable  
15 local, state, and federal laws, rules, and regulations, and any  
16 requirements for emergency care and disaster planning, and the  
17 operator has not abandoned its patients or residents.

18 SECTION 6. Section 128-19, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"§128-19 Immunity from liability of private shelter. (a)**  
21 Any individual, partnership, firm, society, unincorporated  
22 association, joint venture group, hui, joint stock company,

1 corporation, trustee, personal representative, trust estate,  
2 decedent's estate, trust, or other legal entity, together with  
3 its successors in interest, whether doing business for itself or  
4 in a fiduciary capacity, owning or controlling real property,  
5 who voluntarily and without compensation grants a license or  
6 privilege for, or otherwise permits, the designation by the  
7 director of civil defense for the use of the whole or any part  
8 of the property for the purpose of sheltering persons during an  
9 actual, impending, mock or practice attack, or during a disaster  
10 or emergency, shall [~~together with its successors in interest,~~  
11 ~~if any,~~] not be civilly liable for negligently causing the death  
12 of or injury to any person or damage to any personal property on  
13 the property of the licensor in connection with the use of the  
14 licensed premises for the purposes designated. [~~For purposes of~~  
15 ~~this section, the consideration paid by any guest or person for~~  
16 ~~transient accommodation lodging shall not be considered~~  
17 ~~compensation.~~]

18 (b) The immunity from liability under this section shall  
19 also apply to:

20 (1) Transient accommodations, as defined in section



1           237D-1, by one or more rooms, apartments, or suites,  
2           without regard to whether compensation was received  
3           from any guest; and

4           (2) A healthcare facility, as defined in section 291E-21,  
5           and including nursing homes, long-term care  
6           facilities, and adult residential care homes, that  
7           complies with applicable state, county, and federal  
8           laws and regulations, and with requirements for  
9           emergency care in accordance with disaster planning;  
10           provided that the patients or residents are not  
11           abandoned by the healthcare facility during disaster  
12           or emergency."

13           SECTION 7. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 8. This Act shall take effect upon its approval.

**Report Title:**

Civil Defense; Federal Conformity

**Description:**

Conforms Hawaii's civil defense laws to current federal laws, organizational structure, and practices; provides immunity from liability to healthcare facilities that provide shelter during disasters and emergencies. (SD1)

