

JAN 25 2006

S.B. NO. 2849

A BILL FOR AN ACT

RELATING TO THE STATE TORT LIABILITY ACT.

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

1 SECTION 1. Section 662-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§662-15 Exceptions.** This chapter shall not apply to:

- 4 (1) Any claim based upon an act or omission of an employee
5 of the State, exercising due care, in the execution of
6 a statute or regulation, whether or not such statute
7 or regulation is valid, or based upon the exercise or
8 performance or the failure to exercise or perform a
9 discretionary function or duty on the part of a state
10 officer or employee, whether or not the discretion
11 involved has been abused;
- 12 (2) Any claim arising in respect of the assessment or
13 collection of any tax, or the detention of any goods
14 or merchandise by law enforcement officers;
- 15 (3) Any claim for which a remedy is provided elsewhere in
16 the laws of the State;
- 17 (4) Any claim arising out of assault, battery, false
18 imprisonment, false arrest, malicious prosecution,



abuse of process, libel, slander, misrepresentation,
deceit, or interference with contract rights;

(5) Any claim arising out of the combatant activities of
the Hawaii national guard and Hawaii state defense
force during time of war, or during the times the
Hawaii national guard is engaged in federal service
pursuant to section 316, 502, 503, 504, 505, or 709 of
Title 32 of the United States Code;

(6) Any claim arising in a foreign country; [~~or~~]

(7) Any claim arising out of the acts or omissions of any
boating enforcement officer[-]; or

(8) Any claim relating to highway safety, if the
transaction on which the claim is based involves a
vehicle driven or occupied by the claimant or any
person claiming through the driver or occupant, which
vehicle was driven:

(A) Twenty-five miles per hour or more in excess of
the lesser of the speed limit or the speed
advisory;

(B) By an individual under the influence of an
intoxicant as determined by section 291E-61; or

1 (C) By an individual who failed to exercise
 2 reasonable care, including an individual who fell
 3 asleep at the wheel, was intoxicated, or lost
 4 control of the vehicle because of such failure at
 5 the time of the transaction's occurrence."

6 SECTION 2. Chapter 662, Hawaii Revised Statutes, is
 7 amended by adding a new section to be appropriately designated
 8 and to read as follows:

9 **"§ 662- Duty of counties' care limited in highway cases.**

10 No county of this State or employee of such county shall be
 11 liable to any person for injury or damage on account of any
 12 claim described in section 662-15(8)."

13 SECTION 3. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

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 Suzanne Chun Oakland
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Report Title:

State Tort Liability; Limited Duty of Care for State and County

Description:

Eliminates the duty of care of the State and counties to make highways reasonable safe for those found to have been injured on a highway as the result of excessive speed or under the influence of an intoxicant.

