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# A BILL FOR AN ACT

RELATING TO LIABILITY.

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

1                                   PART I.

2           SECTION 1.   The legislature finds that the statutes  
3 providing state and county immunity on certain public lands have  
4 proven to be beneficial to the state and county governments as  
5 well as the general public.  The liability protections have  
6 reduced the exposure of the state and county governments to  
7 substantial damages and, as a result, allowed the state and  
8 county governments to keep recreational areas with potentially  
9 dangerous conditions open to the public.  Furthermore, the  
10 warning signage required by the statutes has promoted public  
11 safety by informing users of the recreational areas of  
12 potentially dangerous conditions.

13           The purpose of Part I of this Act is to extend the  
14 automatic repeal dates of three statutes that provide the state  
15 and county governments with liability protection for public use  
16 of certain state or county recreational areas.



1 SECTION 2. Act 190, Session Laws of Hawaii 1996, as  
2 amended by Act 101, Session Laws of Hawaii 1999, as amended by  
3 Act 170, Session Laws of Hawaii 2002, is amended by amending  
4 section 7 to read as follows:

5 "SECTION 7. This Act shall take effect on July 1, 1996;  
6 provided that this Act shall be repealed on June 30, [~~2007-~~]  
7 2010."

8 SECTION 3. Act 170, Session Laws of Hawaii 2002, is  
9 amended by amending section 5 to read as follows:

10 "SECTION 5. This Act shall take effect upon its approval;  
11 provided that section 1 of this Act shall be repealed on  
12 June 30, [~~2007-~~] 2010."

13 SECTION 4. Act 82, Session Laws of Hawaii 2003, is amended  
14 by amending section 8 to read as follows:

15 "SECTION 8. This Act shall take effect on July 1, 2003,  
16 and shall be repealed on June 30, [~~2008-~~] 2010."

17 SECTION 5. (a) There shall be established a task force to  
18 examine the effectiveness of, collect sufficient data relating  
19 to, and provide to the legislature information on Act 190,  
20 Session Laws of Hawaii 1996, as amended; Act 170, Session Laws  
21 of Hawaii 2002; and Act 82, Session Laws of Hawaii 2003.

22 (b) The task force shall include members as follows:



- 1           (1) The attorney general or the attorney general's
- 2           designee as chair of the task force;
- 3           (2) The president of the Hawaii state association of
- 4           counties or the president's designee;
- 5           (3) The mayor of the city and county of Honolulu or the
- 6           mayor's designee;
- 7           (4) The mayor of the county of Maui or the mayor's
- 8           designee;
- 9           (5) The mayor of the county of Hawaii or the mayor's
- 10          designee;
- 11          (6) The mayor of the county of Kauai or the mayor's
- 12          designee; and
- 13          (7) The executive director of the consumer lawyers of
- 14          Hawaii or the executive director's designee.
- 15          (c) The task force shall:
- 16           (1) Collect data on and examine the effectiveness of
- 17           providing lifeguards conditional liability protection
- 18           for lifeguard services at state beach parks, except
- 19           for gross negligence and wanton acts or omissions;
- 20           (2) Collect data on and examine the effectiveness and
- 21           adequacy of warning signs at public beach parks in
- 22           increasing public safety, reducing ocean-related

1 accidents, and protecting the State and counties from  
2 unlimited liability with regard to activities in the  
3 ocean and at public beaches; and

4 (3) Collect data on and examine the effectiveness and  
5 adequacy of warning signs at public recreational lands  
6 in increasing public safety, and protecting the State  
7 and counties from unlimited liability arising out of  
8 recreational activities on public lands.

9 (d) The task force shall submit its findings and  
10 recommendations, including any proposed legislation, to the  
11 legislature no later than twenty days prior to the convening of  
12 the 2008 regular session.

13 PART II.

14 SECTION 6. Section 46-72, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "~~§~~46-72 Liability for injuries or damages; notice [of  
17 injuries]. Before the county shall be liable for damages to any  
18 person for injuries to person or property received upon any of  
19 the streets, avenues, alleys, sidewalks, or other public places  
20 of the county, or on account of any negligence of any official  
21 or employee of the county, the person [æ] injured, or the owner  
22 or person entitled to the possession, occupation, or use of the



1 property [~~se~~] injured, or someone [~~in~~] on the person's behalf,  
2 shall, within [~~six months~~] two years after the injuries [~~are~~  
3 ~~received,~~] occurred, give the individual identified in the  
4 respective county's charter, or if none is specified, the  
5 chairperson of the council of the county or the [~~city~~] clerk of  
6 [~~Honolulu~~] the county in which the injuries occurred, notice in  
7 writing of the injuries and the specific damages resulting,  
8 stating fully [~~in the notice~~] when, where, and how the injuries  
9 or damage occurred, the extent [~~thereof,~~] of the injuries or  
10 damages, and the amount claimed [~~therefor~~]."

11 PART III.

12 SECTION 7. 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 8. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect on June 29, 2059.



**Report Title:**

Government Liability

**Description:**

Extend certain automatic repeal dates of provisions that provide state and county governments liability protection for public use of certain state or county recreational areas; extend statute of limitation for actions against a county for damage or injury.

(SD2)

