

H.B. NO. 1040

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1 SECTION 1. The liability protections afforded to
2 lifeguards in Act 170, Session Laws of Hawaii 2002, will sunset
3 on June 30, 2010. Act 170 provides liability protection for
4 lifeguard services on the beach or in the ocean, except for
5 gross negligence or wanton acts or omissions. This limited
6 liability protection was made necessary because some counties
7 would not provide lifeguard services at state beach parks, due
8 to the fear of potential liability that might ensue. The
9 legislature finds that Act 170 created a climate in which
10 lifeguard services could be provided by the counties without
11 fear of liability, and, therefore, is a life-saving measure that
12 should be made permanent.

13 The purpose of this Act is to make permanent the liability
14 protections in lifeguard cases.

15 SECTION 2. Act 170, Session Laws of Hawaii 2002, as
16 amended by section 4 of Act 152, Session Laws of Hawaii 2007, is
17 amended by amending section 5 to read as follows:

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1 "SECTION 5. This Act shall take effect upon its approval[+
2 ~~provided that section 1 of this Act shall be repealed on June~~
3 ~~30, 2010]."~~

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken.

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

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INTRODUCED BY:



BY REQUEST

JAN 26 2009

Report Title:

Tort Liability; Lifeguards

Description:

Repeals the sunset date and makes permanent the law shielding county lifeguards from liability.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO TORT LIABILITY.

PURPOSE: The purpose of this bill is to make permanent the liability protections in lifeguard cases. At present, the liability protections afforded to lifeguards in Act 170, Session Laws of Hawaii (SLH) 2002, will sunset on June 30, 2010.

MEANS: Amend section 5 of Act 170, SLH 2002, as amended by section 4 of Act 152, SLH 2007.

JUSTIFICATION: Act 170, SLH 2002, provides liability protection for lifeguard services on the beach or in the ocean, except for gross negligence or wanton acts or omissions. This limited liability protection was made necessary because some counties would not provide lifeguard services at state beach parks, due to the fear of potential liability that might ensue. Thus, Act 170 created a climate in which lifeguard services could be provided by the counties without fear of liability. This is a life-saving measure that deserves to be made permanent.

Impact on the public: The public in general will benefit from the increase in public safety as well as from the saving of public funds.

Impact on the department and other agencies: Making lifeguard immunity permanent would ensure that the maximum number of beach parks are guarded thereby limiting the potential liability for drowning deaths and other injuries occurring on state beach parks.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Land and Natural Resources and
 the counties.

EFFECTIVE DATE: Upon approval.