
A BILL FOR AN ACT

RELATING TO CIVIL DEFENSE.

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

1 SECTION 1. One of the policies and purposes of chapter
2 128, Hawaii Revised Statutes, is for all civil defense functions
3 of the State to be coordinated to the maximum extent possible
4 with the comparable functions of the federal government
5 (including its various departments and agencies), other states
6 and localities, and private agencies of every type; so that the
7 most effective preparation and use may be made of all personnel,
8 resources, and facilities for dealing with any disaster or
9 emergency that may occur.

10 The legislature finds that there is a need to amend the law
11 regarding the liability of an owner or operator of a hospital,
12 community-based care home, home-based care home, or healthcare
13 agency or facility of any type, as well as day care, and
14 educational institutions, when an owner or operator of these
15 facilities permits the use of the property for sheltering
16 persons during disasters and emergencies. The legislature
17 recognizes that there is a shortage of shelter space in Hawaii

1 and that the private industry should be encouraged to assist the
2 public by providing shelter for those persons who by reason of
3 existing relationships may already be in these facilities during
4 disasters and emergencies. Under the current law, it is unclear
5 whether owners or operators of certain facilities are able to
6 fully comply with the requirements of section 128-19, Hawaii
7 Revised Statutes, when providing shelter to persons in their
8 care, custody, or charge because section 128-19 requires that
9 shelter be made available without compensation. The purpose of
10 this Act is to clarify that compensation received by certain
11 private entities for use of facilities as a private shelter is
12 not considered compensation for the purposes of section 128-19,
13 Hawaii Revised Statutes.

14 SECTION 2. Section 128-19, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§128-19 Immunity from liability of private shelter.** (a)

17 Any individual, partnership, firm, society, unincorporated
18 association, joint venture group, hui, joint stock company,
19 corporation, trustee, personal representative, trust estate,
20 decedent's estate, trust, or other legal entity whether doing
21 business for itself or in a fiduciary capacity, owning or
22 controlling real property, [~~who~~] that voluntarily and without

1 compensation grants a license or privilege for, or otherwise
2 permits, the designation by the director of civil defense for
3 the use of the whole or any part of the property for the purpose
4 of sheltering persons during an actual, impending, mock, or
5 practice attack shall, together with its successors in interest,
6 if any, not be civilly liable for negligently causing the death
7 of or injury to any person or damage to any personal property on
8 the property of the licensor in connection with the use of the
9 licensed premises for the purposes designated. [~~For purposes of~~
10 ~~this section, the consideration paid by any guest or person for~~
11 ~~transient accommodation lodging shall not be considered~~
12 ~~compensation.~~]

13 (b) For the purposes of this section, the following shall
14 not be considered compensation:

15 (1) Any compensation or consideration paid by or on behalf
16 of any guest or person for transient accommodation
17 lodging;

18 (2) Any compensation or consideration paid for any
19 patient, resident, or ward present or residing in any
20 hospital, community-based care home, home-based care
21 home, or healthcare agency of any type licensed by the
22 department of health or the department of human

1 services and used as a private shelter under this
2 section; provided that the protections afforded by
3 this section shall not extend beyond the use of the
4 private shelter under this section for any other duty
5 or standard of care owed to any patient, resident, or
6 ward; and

7 (3) Any compensation or consideration paid by or on behalf
8 of any minor or student of any age in any day care,
9 preschool, elementary school, middle school, or any
10 other educational facility used as a private shelter
11 under this section."

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

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

Report Title:

Liability Exemptions; Disasters; Care Homes; Schools

Description:

Supports State Civil Defense's Shelter-in-Place initiative by exempting civil liability for care homes and schools, in addition to hotels, during an officially designated emergency. (SD2)