

CHAPTER 662
STATE TORT LIABILITY ACT

Section

- 662-1 Definitions
- 662-2 Waiver and liability of State
- 662-3 Jurisdiction
- 662-4 Statute of limitations
- 662-5 Jury
- 662-6 Pleadings, trial and appeal
- 662-7 Attorney general
- 662-8 Interest
- 662-9 Costs
- 662-10 Judgment as bar
- 662-11 Compromise
- 662-12 Attorney's fees
- 662-13 No awards except upon legal evidence
- 662-14 Exclusiveness of remedy
- 662-15 Exceptions
- 662-16 Defense of state employees
- 662-17 Benefits and obligations of parents of minor employees
- 662-18 Conclusive presumptions; unexploded ordnance on
Kaho'olawe and in the ocean adjacent to Kaho'olawe
- 662-19 Limited liability for skateboarding activities in
public skateboard parks

Cross References

Government entity as a tortfeasor; abolition of joint and several liability, see §663-10.5.

Law Journals and Reviews

Tort and Insurance "Reform" in a Common Law Court. 14 UH L. Rev. 55 (1992).

Ala Loop and the Private Right of Action Under Hawai'i Constitution Article XI, Section 9: Charting a Path Toward a Cohesive Enforcement Scheme. 33 UH L. Rev. 367 (2010).

Case Notes

Determination of whether a state function is discretionary, discussed. 71 H. 581, 799 P.2d 959 (1990).

Counties do not fall within the ambit of the State Tort Liability Act; §46-72 is the statute of limitations applicable to actions against the counties. 104 H. 341, 90 P.3d 233 (2004).

Petitioner's claim for alleged negligence by the department of education (DOE) in evaluating petitioner's proposal, and in deciding the dispute with petitioner, was barred under this chapter because the DOE's conduct was not analogous to "a recognized claim for relief against a private person"; petitioner did not identify circumstances under which a private party could be sued for negligently applying the law, rules, or a request for proposals in awarding a government contract. 127 H. 263, 277 P.3d 988 (2012).

State has not waived sovereign immunity from 42 U.S.C. §1983 actions. 6 H. App. 397, 721 P.2d 165 (1986).

" **§662-1 Definitions.** As used in this chapter the term:

"Acting within the scope of the employee's office or employment", in the case of a member of the Hawaii National Guard or Hawaii state defense force, means acting in the line of duty.

"Employees of the State" includes officers and employees of any state agency, members of the Hawaii national guard, Hawaii state defense force, and persons acting in behalf of a state agency in an official capacity, temporarily, whether with or without compensation. "Employees of the State" also includes persons employed by a county of this State as lifeguards and designated to provide lifeguard services at a designated state beach park under an agreement between the State and that county.

"State agency" includes the executive departments, boards, and commissions of the State but does not include any contractor with the State. [L 1957, c 312, pt of §1; Supp, §245A-1; HRS §662-1; am L 1988, c 135, §1; am L 1991, c 316, §1; am L 2015, c 35, §19]

Law Journals and Reviews

Rogers v. State: The Limits of State Tort Liability. 8 HBJ no. 3, at 89 (1971).

Case Notes

Federal employee acting in line of duty may also be acting in line of duty under state tort liability law. 643 F. Supp. 593 (1986).

Act should be liberally construed to effectuate its purpose. 51 H. 293, 459 P.2d 378 (1969).

" **§662-2 Waiver and liability of State.** The State hereby waives its immunity for liability for the torts of its employees and shall be liable in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages. [L 1957, c 312, pt of §1; Supp, §245A-2; HRS §662-2; am L 1972, c 164, §2(a)]

Attorney General Opinions

State liable for torts of volunteers working for state agencies. Att. Gen. Op. 85-8.

Law Journals and Reviews

Punitive Damages in Hawaii: Curbing Unwarranted Expansion. 13 UH L. Rev. 659 (1991).

Fido Seeks Full Membership In The Family: Dismantling The Property Classification of Companion Animals By Statute. 25 UH L. Rev. 481 (2003).

Case Notes

Consent to suit in federal court; waiver of immunity in this section is not just a waiver to actions in state courts. 512 F. Supp. 889 (1981).

Where plaintiffs argued that State waived its Eleventh Amendment immunity through the enactment of §353-14 and the

State's Tort Claims Act [sic], this section and §663-1, no express consent or applicable waiver provisions found. 940 F. Supp. 1523 (1996).

Section 661-1 and this section did not constitute a waiver of defendants' Eleventh Amendment immunity where plaintiffs contended that defendants' failure to provide sufficient Hawaiian language in Hawaii's public schools violated state and federal laws. 951 F. Supp. 1484 (1996).

State must exercise same standard of care required of private party. 51 H. 150, 454 P.2d 112 (1969).

Prohibition against payment of interest "prior to judgment" construed. 52 H. 156, 472 P.2d 509 (1970).

State's duty to construct and maintain safe highways; no obligation to guard against unusual accidents. 57 H. 405, 557 P.2d 125 (1976).

Negligent operation of automobile by escapee of state hospital held not a foreseeable consequence of the negligence which permitted the escape. 59 H. 515, 583 P.2d 980 (1978).

Assumption of risk is applicable for failure to provide a safe working place only in cases of voluntary employment and does not apply to prison laborers. The State owes a duty to protect prisoners from unreasonable risk of physical harm. 60 H. 557, 592 P.2d 820 (1979).

This act did not waive sovereign immunity from suits for money damages for constitutional rights. 61 H. 369, 604 P.2d 1198 (1979).

Duty owed by State to public school students during required attendance entails general supervision unless specific needs or dangerous situation require specific supervision. 62 H. 483, 616 P.2d 1376 (1980).

Negligent infliction of mental distress. Death of family dog. 63 H. 557, 632 P.2d 1066 (1981).

Reconstruction or replacement of Moanalua stream bridge would involve evaluation of broad policy factors, and therefore was discretionary function. 66 H. 76, 655 P.2d 877 (1982).

Based on State's knowledge of defective guardrail, danger it posed to a driver and passengers who struck it, and the opportunity to improve it, trial court did not err in concluding that State breached its duty of care in failing to design, construct, and/or maintain--which includes a duty to "correct" defects in--the highway and guardrail. 91 H. 60, 979 P.2d 1086 (1999).

Where prior accident gave State reasonable prior notice of a prior occurrence under similar circumstances, State had made improvements to highway in vicinity of guardrail, and had knowledge of potential ramping problems associated with guardrail, intoxicated driver's reckless actions were

"reasonably foreseeable" and thus not the sole legal cause of plaintiff's injuries and damages. 91 H. 60, 979 P.2d 1086 (1999).

This section provides in clear and unambiguous language that the State shall not be liable for interest prior to judgment and constitutes a plain reservation of immunity with respect to prejudgment interest on judgments rendered against the State. As no other statute unequivocally expresses a clear relinquishment of the State's immunity from awards of prejudgment interest, trial court did not err in concluding that the State is immune from paying prejudgment interest on the damages for which it is liable. 105 H. 104, 94 P.3d 659 (2004).

Where, assuming that the department of human services had a legal duty to protect minor, as plaintiffs alleged that it did, a "special relation" would exist between the department and the minor such that the department's duty would encompass a duty to prevent further physical harm to minor upon reports of physical abuse; thus, where plaintiffs met their burden of demonstrating the existence of a private analog in the form of a "special relationship" that satisfied the necessary elements under Restatement (Second) of Torts §315(b), plaintiffs met the threshold requirement of a claim against the department. 117 H. 262, 178 P.3d 538 (2008).

Read together, §662-5 acts as a limitation on the general state tort liability waiver found in this section, and the general waiver thus does not provide a right to a jury trial for tort actions against state entities; therefore, the circuit court did not err in independently determining the state hospital's liability, resulting in joint and several damages different from those "awarded" by the jury. 127 H. 325 (App.), 278 P.3d 382 (2012).

" **§662-3 Jurisdiction.** The circuit courts of the State and, except as otherwise provided by statute or rule, the state district courts shall have original jurisdiction of all tort actions on claims against the State, for money damages, accruing on and after July 1, 1957, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the State while acting within the scope of the employee's office or employment. [L 1957, c 312, pt of §1; Supp, §245A-3; HRS §662-3; am L 1978, c 156, §2; am L 1984, c 135, §3; am L 2015, c 35, §20]

Case Notes

Does not bar U.S. government from bringing claim for contribution against State in federal court. 643 F. Supp. 593 (1986).

Nothing in the language of this section and §661-1 suggests that Hawaii intended to subject itself to suit in federal court. 950 F. Supp. 2d 1159 (2013).

Where plaintiffs seek injunction for unconstitutional acts and damages, sovereign immunity bars suit. 68 H. 192, 708 P.2d 129 (1985), cert. denied, 476 U.S. 1169 (1986).

" **§662-4 Statute of limitations.** A tort claim against the State shall be forever barred unless action is begun within two years after the claim accrues, except in the case of a medical tort claim when the limitation of action provisions set forth in section 657-7.3 shall apply. [L 1957, c 312, pt of §1; Supp, §245A-4; HRS §662-4; am L 1976, c 219, §16]

Case Notes

Claim accrues when the plaintiff knew or should have known that an actionable wrong has been committed. 63 H. 117, 621 P.2d 957 (1980).

Minority tolling not applicable. 72 H. 77, 806 P.2d 957 (1991).

Plaintiff's lack of knowledge regarding a legal duty, the breach of which may have caused plaintiff's injury, did not justify application of "discovery rule"; plaintiff's failure to seek legal advice from an attorney did not toll statute of limitations. 81 H. 391, 917 P.2d 718 (1996).

Counties do not fall within the ambit of the State Tort Liability Act; §46-72 is the statute of limitations applicable to actions against the counties. 104 H. 341, 90 P.3d 233 (2004).

Where plaintiffs' claim did not accrue until the quantum of the medical care they actually received exceeded the medical-rehabilitative limit set forth in §431:10C-306(b)(2) (1993), and plaintiff apparently exceeded that limit, this section afforded plaintiffs two years from the accrual of their claim within which to file their lawsuit; as plaintiffs' claim had accrued by the time they filed their complaint but not more than two years prior, the complaint was timely under this section; thus, trial court properly denied defendant's motion to dismiss. 113 H. 459, 153 P.3d 1144 (2007).

Where §46-72 (2006) created a class of tort claimants, injured by the conduct of a county, who were subject to a six-month statute of limitations period for filing their complaint, and victims of injuries caused by the State under this section had a

two-year limitation period, and there was no rational basis to support such disparate treatment, §46-72 (2006) was unconstitutional under article I, §5 of the Hawaii constitution. 115 H. 1, 165 P.3d 247 (2007).

Continuing-tort exception, which tolls running of statute of limitations under this section, adopted; thus, where an actor continuously diverts water over which he or she has direct control onto another's land, and the diversion causes continuous and substantial damage to that person's property and the actor knows of this damage, such an act may present evidence of a continuous tort. 88 H. 241 (App.), 965 P.2d 783 (1998).

" **§662-5 Jury.** Any action against the State under this chapter shall be tried by the court without a jury; provided that the court, with the consent of all the parties, may order a trial with a jury whose verdict shall have the same effect as if trial by jury had been a matter of right. [L 1957, c 312, pt of §1; Supp, §245A-5; HRS §662-5; am L 1979, c 152, §2]

Case Notes

This section held not to entitle county of Hawaii to nonjury trial. 57 H. 656, 562 P.2d 436 (1977).

Consent to trial cannot be involuntary or implied. 6 H. App. 582, 733 P.2d 1224 (1987).

Read together, this section acts as a limitation on the general state tort liability waiver found in §662-2, and the general waiver thus does not provide a right to a jury trial for tort actions against state entities; therefore, the circuit court did not err in independently determining the state hospital's liability, resulting in joint and several damages different from those "awarded" by the jury. 127 H. 325 (App.), 278 P.3d 382 (2012).

Read together with this section, §663-10.9(3) requires the imposition of joint and several liability only as adjudicated by the court, not the jury; having determined that the state hospital's individual degree of negligence was more than twenty-five per cent, the circuit court properly awarded joint and several damages against the hospital to the full extent that the court determined patient's injuries to arise out of the subject incident, and therefore complied with §663-10.9(3). 127 H. 325 (App.), 278 P.3d 382 (2012).

" **§662-6 Pleadings, trial and appeal.** [(a)] The Hawaii rules of civil procedure and the district court rules of civil procedure as applicable shall be followed in any action under

this chapter. A certified copy of all pleadings shall be duly served on the attorney general.

[(b)] Sections 661-2 and 661-9 shall apply to actions under this chapter. [L 1957, c 312, pt of §1; Supp, §245A-6; HRS §662-6; am L 1972, c 164, §2(b); am L 1978, c 156, §3]

Note

Section 661-9 referred to in text is repealed.

" **§662-7 Attorney general.** The State shall be represented by the attorney general of the State in all actions under this chapter. [L 1957, c 312, pt of §1; Supp, §245A-7; HRS §662-7]

" **§662-8 Interest.** On all final judgments rendered against the State in actions instituted under this chapter, interest shall be computed at the rate of four per cent a year from the date of judgment up to, but not exceeding, thirty days after the date of approval of any appropriation act providing for payment of the judgment. [L 1957, c 312, pt of §1; Supp, §245A-8; HRS §662-8]

Attorney General Opinions

Implies that judgments against State not funded by agency budgets. Att. Gen. Op. 85-8.

Case Notes

Trial court did not err in concluding that the State was immune from paying more than four per cent per annum post-judgment interest on the plaintiffs' damages; as State appealed from trial court's judgment and thus interest began to accrue "after the judgment on appeal", trial court did not err in concluding that post-judgment interest on the plaintiffs' damages began to accrue on that date. 105 H. 104, 94 P.3d 659 (2004).

Applicable to judgments against State; interest accrues from entry of final appellate judgment. 6 H. App. 70, 708 P.2d 829 (1985), aff'd, 68 H. 220, 708 P.2d 824 (1985).

" **§662-9 Costs.** In an action under this chapter, court costs and fees as set by law may be allowed to the prevailing party. [L 1957, c 312, pt of §1; Supp, §245A-9; HRS §662-9; am L 1972, c 164, §2(c); am L 1979, c 152, §3]

Case Notes

This section and §662-12 not inconsistent as to attorney's fees. 51 H. 540, 465 P.2d 580 (1970).

" **§662-10 Judgment as bar.** The judgment in an action under this chapter shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the State whose act or omission gave rise to the claim. [L 1957, c 312, pt of §1; Supp, §245A-10; HRS §662-10]

" **§662-11 Compromise.** (a) The attorney general may arbitrate, compromise, or settle any claim cognizable under this chapter.

(b) Claims arbitrated, compromised, or settled by the attorney general for \$10,000 or less shall be paid from the state risk management revolving fund. Claims arbitrated, compromised, or settled by the attorney general for more than \$10,000 shall be paid only after funds are appropriated by the legislature for the payment of those claims. [L 1957, c 312, pt of §1; Supp, §245A-11; am L 1967, c 232, §1; HRS §662-11; am L 1988, c 336, §1; am L 1990, c 117, §3]

Cross References

State risk management revolving fund, see §41D-4.

" **§662-12 Attorney's fees.** The court rendering a judgment for the plaintiff pursuant to this chapter or the attorney general making a disposition pursuant to section 662-11 may, as a part of such judgment, award, or settlement, determine and allow reasonable attorney's fees which shall not, however, exceed twenty-five per cent of the amount recovered and shall be payable out of the judgment awarded to the plaintiff; provided that such limitation shall not include attorney's fees and costs that the court may award the plaintiff as a matter of its sanctions. [L 1957, c 312, pt of §1; Supp, §245A-12; HRS §662-12; am L 1979, c 152, §4]

Case Notes

Attorney's fee may be awarded in addition to judgment. 51 H. 540, 465 P.2d 580 (1970).

Trial court has discretion in awarding attorney's fees. 54 H. 611, 513 P.2d 487 (1973).

Mentioned: 76 H. 487, 879 P.2d 1070 (1994).

" **§662-13 No awards except upon legal evidence.** In no case shall any liability be implied against the State, and no award shall be made against the State except upon such legal evidence as would establish liability against an individual or corporation. [L 1957, c 312, pt of §1; Supp, §245A-13; HRS §662-13]

" **§662-14 Exclusiveness of remedy.** The authority of the State or any state agency to sue and be sued in its own name shall not be construed to authorize any other actions against the State or such agency on claims for torts of its employees, and the rights and remedies provided by this chapter and section 661-11 shall be exclusive. [L 1957, c 312, pt of §1; Supp, §245A-14; HRS §662-14; am L 1972, c 164, §2(d)]

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

- (1) Any claim based upon an act or omission of an employee of the State, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state officer or employee, whether or not the discretion involved has been abused;
- (2) Any claim arising in respect of the assessment or collection of any tax, or the detention of any goods or merchandise by law enforcement officers;
- (3) Any claim for which a remedy is provided elsewhere in the laws of the State;
- (4) Any claim arising out of assault, battery, false 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. [L 1957, c 312, pt of §1; Supp, §245A-15; HRS §662-15; am L 1972, c 164, §2(e); am L 1979, c 195, §2; am L 1986, c 173, §1; am L 1987, c 192, §1; am L 1988, c 135, §1; am L 1991, c 272, §15; am L 1998, c 213, §2; am L 1999, c 115, §§4, 11; am L 2004, c 10, §10]

Cross References

Claim against the ferry system, see §§268-11 to 268-15.

Law Journals and Reviews

Rogers v. State: The Limits of State Tort Liability. 8 HBJ, no. 3, at 89 (1971).

A Self-Executing Article XI, Section 9--The Door For a Bivens Action for Environmental Rights? 34 UH L. Rev. 187 (2012).

Case Notes

Section was not applied retroactively. 832 F.2d 1116 (1987).
Discretionary function exception discussed. 51 H. 150, 454 P.2d 112 (1969).

Acts done on operational level are not within discretionary function exception. 51 H. 293, 459 P.2d 378 (1969); 52 H. 156, 472 P.2d 509 (1970).

Distinction between governmental activity and private activity is not valid basis for determining liability. 51 H. 293, 459 P.2d 378 (1969).

Discretionary function exception discussed re highway design. 57 H. 656, 562 P.2d 436 (1977).

Claim for negligent and/or intentional infliction of emotional distress against Hawaii civil rights commission not barred under paragraph (1), as acts of investigating complaint, instituting suit based on finding of reasonable cause, and sending demand letter were part of routine operations of commission and did not involve broad policy considerations encompassed within the discretionary function exception. 88 H. 85, 962 P.2d 344 (1998).

The discretionary function exception in paragraph (1) is limited to situations in which a government agent is engaged in the effectuation of "broad public policy"; the investigation of a complaint by the Hawaii civil rights commission, in and of itself, does not involve such considerations; thus, a counterclaim for negligence in the performance of an investigation is not barred by sovereign immunity. 88 H. 85, 962 P.2d 344 (1998).

Decision not to improve guardrail, at time of highway resurfacing project, constituted an operational level decision that did not fall within the discretionary function exception of paragraph (1). 91 H. 60, 979 P.2d 1086 (1999).

To the extent that the plaintiffs predicated their negligence and negligent infliction of emotional distress claims upon the

department of education's (DOE) negligent retention and supervision of teacher, paragraph (4) did not insulate the DOE from liability; given that plaintiffs had alleged that the DOE reasonably should have anticipated that teacher would molest the girl students, their negligent retention and supervision claims did not "arise out" of teacher's acts of molestation. 100 H. 34, 58 P.3d 545 (2002).

Where a plaintiff's negligence claim against the State seeks to hold the State vicariously liable for a state employee's assault, battery, false imprisonment, etc. under the doctrine of respondeat superior, the State is, pursuant to paragraph (4), immune from the plaintiff's claims. 100 H. 34, 58 P.3d 545 (2002).

As §40-35 applied to plaintiff's ocean recreation management area permit fee dispute, all of plaintiff's tort claims were barred under paragraph (3), which unambiguously provides that chapter 662 is inapplicable to "any claim for which a remedy is provided elsewhere in the laws of the State"; trial court thus did not err in determining that paragraph (3) barred all of plaintiff's tort claims. 113 H. 184, 150 P.3d 833 (2006).

Assuming defendants' claims for "unreasonable failure to consent" and "negligent claims handling" fell within the interference with contract rights exception of paragraph (4), it could not be said that the State improperly interfered with the alleged settlement agreement because, pursuant to §386-8, the State was a necessary party to such agreement. 114 H. 202, 159 P.3d 814 (2007).

Where Hawaii employer-union health benefits trust fund trustees' decision to adopt a two-tier rate structure for health benefit plans was not a routine, everyday matter, but involved the evaluation of broad policy factors, it fell within the discretionary function exception of paragraph (1). 115 H. 126, 165 P.3d 1027 (2007).

State has not waived its immunity in defamation actions. 1 H. App. 517, 620 P.2d 771 (1980).

" **§662-16 Defense of state employees.** The attorney general may defend any civil action or proceeding brought in any court against any employee of the State for damage to property or for personal injury, including death, resulting from the act or omission of any state employee while acting within the scope of the employee's employment. The employee against whom such civil action or proceeding is brought shall deliver within the time after the date of service or knowledge of service as determined by the attorney general, all process or complaint served upon the employee or an attested true copy thereof to the employee's immediate superior or to whomever was designated by the head of

the employee's department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the department of the attorney general.

No judgment by default shall be entered against a state employee based on a cause of action arising out of an act or omission of such employee while acting within the scope of the employee's employment unless the department of the attorney general has received a copy of the complaint or other relevant pleadings and a period of twenty days has elapsed from the date of such receipt.

The attorney general may also defend any civil action or proceeding brought in any court against a county based on an allegedly negligent or wrongful act or omission of persons employed by a county as lifeguards and designated to provide lifeguard services at a designated state beach park under an agreement between the State and a county.

The attorney general may also defend any civil action or proceeding brought in any court against any provider of medical, dental, or psychological services pursuant to contract with the department of public safety when the provider is sued for acts or omissions within the contract's scope of work. [L 1976, c 47, §1; am L 1991, c 316, §2; am L 1994, c 143, §1]

" **[§662-17] Benefits and obligations of parents of minor employees.** All benefits and obligations conferred or imposed upon employees of the State by this chapter are conferred or imposed upon the parents or legal guardians of the employee when the employee is a minor. [L 1988, c 174, §1]

" **[§662-18] Conclusive presumptions; unexploded ordnance on Kaho'olawe and in the ocean adjacent to Kaho'olawe.** (a) The State shall have a duty to warn persons who enter the Kaho'olawe island reserve specifically of the dangers posed by unexploded ordnance on the island or in the adjacent ocean.

(b) A sign, signs, or other device warning of the dangers posed by unexploded ordnance on the island or in the adjacent ocean shall be conclusively presumed to be legally adequate to warn of those dangers if:

- (1) The State posts the sign, signs, or other device on the island; and
- (2) The design and placement of the sign, signs, or other device is approved by the Kaho'olawe island reserve commission.

(c) Prior to approving the design and placement of a warning sign, signs, or device under this section, the Kaho'olawe island reserve commission shall:

- (1) Consider the needs of the public to be warned of the dangers posed by unexploded ordnances on the island and in its adjacent ocean; and
- (2) Consult the task force on warning signs and devices for the Kaho'olawe island reserve.

The Kaho'olawe island reserve commission may seek the advice of the United States Navy or other agency of the United States of America with respect to the appropriate design of warning signs or devices and their placement. The Kaho'olawe island reserve commission may require warning signs or devices in addition to the signage before approving the design and placement of a warning sign or device.

(d) Approval of the design and placement of a warning sign or device under this section shall be a discretionary function under section 662-15(1).

(e) If a warning sign or device posted or established in accordance with this section is vandalized, otherwise removed, or made illegible, the conclusive presumption provided by subsection (b) shall continue for a period of ten days from the date that the vandalism, removal, or illegibility is discovered by the State. The Kaho'olawe island reserve commission shall maintain a record regarding each report of vandalism, removal, or illegibility that results in the replacement of a warning sign or device on the island of Kaho'olawe. The record shall include the date and time of the report and of the replacement of the warning sign or device.

(f) Chapter 91 shall not apply to any action taken, or any procedure followed by the Kaho'olawe island reserve commission pursuant to this section. [L 2002, c 218, §2]

" **[\$662-19] Limited liability for skateboarding activities in public skateboard parks.** (a) No public entity or public employee shall be liable to any person for injury or damage sustained when using a public skateboard park, except when injury or damage is caused by a condition resulting from the public entity's failure to maintain or repair the skateboard park.

(b) Public entities that own or maintain public skateboard parks shall maintain a record of all known or reported injuries incurred by skateboard users in a public skateboard park and all claims paid for such injuries and shall submit a report to the legislature on or before twenty days before the convening of the 2008 legislative session, along with any recommendations regarding the need for further immunity from liability. [L 2003, c 144, §3]