
A BILL FOR AN ACT

RELATING TO LIFEGUARDS.

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

1 SECTION 1. The legislature finds that the Hawaii tort law
2 study group was established in 1997 by Senate Concurrent
3 Resolution No. 256 to study Hawaii's tort system. The study
4 group reported that "immunity is afforded to classes of persons
5 or entities because it is in the public's best interests to do
6 so," and conferring immunity upon a particular class of persons
7 is often based upon whether the social values attached to
8 encouraging the behavior of that group are of such great
9 importance as to merit extraordinary protection from suit.

10 Among the criteria established by the study group for
11 reviewing requests for immunity was a consideration that
12 individuals engaging in inherently dangerous activities need to
13 accept personal responsibility for their actions and the
14 legislature, in determining whether or not to grant immunity,
15 should weigh the financial cost to be borne by taxpayers if
16 immunity were denied.



1 The legislature further finds that Act 170, Session Laws of
2 Hawaii 2002, (Act 170) was enacted to provide immunity for
3 county lifeguards, their employing county, and the State from
4 liability against civil damages arising from any act or omission
5 of the lifeguard while providing rescue, resuscitative, and
6 other lifeguard services on the beach or in the ocean while in
7 the scope of employment as a county lifeguard. Act 170 limited
8 this exception from liability to render it inapplicable to a
9 claim for civil damages resulting from a county lifeguard's
10 gross negligence or wanton act or omission. The legislature
11 intended that Act 170 would provide the State and counties with
12 qualified immunity so that lifeguards could be stationed at
13 dangerous beaches while appropriately limiting the lifeguards'
14 and governmental exposure to liability.

15 Act 170 was enacted with a sunset provision to allow for
16 "evaluation of this measure after sufficient experience has been
17 obtained." Act 152, Session Laws of Hawaii 2007, extended the
18 liability protections for county lifeguard services until
19 June 30, 2010. These protections were again extended until
20 June 30, 2014, by Act 81, Session Laws of Hawaii 2009, wherein
21 the legislature noted that Act 170 "created a climate in which



lifeguard services could be provided by the counties without fear of liability, and, therefore, is a life-saving measure that should be extended."

The legislature finds that ample experience has been obtained to support the determination that the exception to liability for the actions of lifeguards should be made permanent.

Accordingly, the purpose of this Act is to reinstate the exception to liability for county lifeguards and to include the lifeguard's employing county under this exception.

SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is amended to read as follows:

"§663-1.5 Exception to liability. (a) Any person who in good faith renders emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person's acts or omissions, except for such damages as may result from the person's gross negligence or wanton acts or omissions.

(b) No act or omission of any rescue team or physician working in direct communication with a rescue team operating in



1 conjunction with a hospital or an authorized emergency vehicle
2 of the hospital or the State or county, while attempting to
3 resuscitate any person who is in immediate danger of loss of
4 life, shall impose any liability upon the rescue team, the
5 physicians, or the owners or operators of such hospital or
6 authorized emergency vehicle, if good faith is exercised.

7 This section shall not relieve the owners or operators of
8 the hospital or authorized emergency vehicle of any other duty
9 imposed upon them by law for the designation and training of
10 members of a rescue team or for any provisions regarding
11 maintenance of equipment to be used by the rescue team or any
12 damages resulting from gross negligence or wanton acts or
13 omissions.

14 (c) Any physician or physician assistant licensed to
15 practice under the laws of this State or any other state who in
16 good faith renders emergency medical care in a hospital to a
17 person, who is in immediate danger of loss of life, without
18 remuneration or expectation of remuneration, shall not be liable
19 for any civil damages, if the physician or physician assistant
20 exercises that standard of care expected of similar physicians
21 or physician assistants under similar circumstances. Any



1 physician who supervises a physician assistant providing
2 emergency medical care pursuant to this section shall not be
3 required to meet the requirements set forth in chapter 453
4 regarding supervising physicians.

5 (d) Any person or other entity who as a public service
6 publishes written general first aid information dealing with
7 emergency first aid treatment, without remuneration or
8 expectation of remuneration for providing this public service,
9 shall not be liable for any civil damages resulting from the
10 written publication of such first aid information except as may
11 result from its gross negligence or wanton acts or omissions.

12 (e) Any person who in good faith, without remuneration or
13 expectation of remuneration, attempts to resuscitate a person in
14 immediate danger of loss of life when administering any
15 automated external defibrillator, regardless of where the
16 automated external defibrillator that is used is located, shall
17 not be liable for any civil damages resulting from any act or
18 omission except as may result from the person's gross negligence
19 or wanton acts or omissions.

20 Any person, including an employer, who provides for an
21 automated external defibrillator or an automated external



1 defibrillator training program shall not be vicariously liable
2 for any civil damages resulting from any act or omission of the
3 persons or employees who, in good faith and without remuneration
4 or the expectation of remuneration, attempt to resuscitate a
5 person in immediate danger of loss of life by administering an
6 automated external defibrillator, except as may result from a
7 person's or employer's gross negligence or wanton acts or
8 omissions.

9 (f) Any physician or physician assistant who administers
10 an automated external defibrillator program without remuneration
11 or expectation of remuneration shall not be liable for any civil
12 damages resulting from any act or omission involving the use of
13 an automated external defibrillator, except as may result from
14 the physician's or physician assistant's gross negligence or
15 wanton acts or omissions.

16 (g) Any person who in good faith, without remuneration or
17 expectation of remuneration, attempts to rescue a person in
18 immediate danger of loss of life by use of a rescue tube,
19 regardless of where the rescue tube that is used is located,
20 shall not be liable for any civil damages resulting from any act



1 or omission except as may result from the person's gross
2 negligence or wanton acts or omissions.

3 The owner or operator of any premises, property, or
4 facility that is adjacent to navigable waters, where a rescue
5 tube is located shall not be liable for any civil damages
6 resulting from any act or omission relating to the storage,
7 maintenance, or use of the rescue tube.

8 (h) This section shall not relieve any person, physician,
9 physician assistant, or employer of:

10 (1) Any other duty imposed by law regarding the
11 designation and training of persons or employees;

12 (2) Any other duty imposed by provisions regarding the
13 maintenance of equipment to be used for resuscitation;
14 or

15 (3) Liability for any damages resulting from gross
16 negligence, or wanton acts or omissions.

17 (i) Any person qualified as a county lifeguard who renders
18 rescue, resuscitative, or other lifeguard services without
19 remuneration or expectation of remuneration on a beach or in the
20 ocean while in the scope of employment as a county lifeguard,
21 shall not be liable for civil damages resulting from the



1 person's acts or omissions while providing rescue,
2 resuscitative, or other lifeguard services, except for damages
3 that may result from the person's gross negligence or wanton
4 acts or omissions. The provisions of this subsection shall also
5 apply to the lifeguard's employing county.

6 ~~[(i)]~~ (j) For the purposes of this section:

7 "Automated external defibrillator program" means an
8 appropriate training course that includes cardiopulmonary
9 resuscitation and proficiency in the use of an automated
10 external defibrillator.

11 "Good faith" includes but is not limited to a reasonable
12 opinion that the immediacy of the situation is such that the
13 rendering of care should not be postponed.

14 "Rescue team" means a special group of physicians, basic
15 life support personnel, advanced life support personnel,
16 surgeons, nurses, volunteers, or employees of the owners or
17 operators of the hospital or authorized emergency vehicle who
18 have been trained in basic or advanced life support and have
19 been designated by the owners or operators of the hospital or
20 authorized emergency vehicle to attempt to provide such support



1 and resuscitate persons who are in immediate danger of loss of
2 life in cases of emergency.

3 "Rescue tube" means a flotation device used for water
4 rescues that helps support the victim's and rescuer's weight."

5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11
INTRODUCED BY:


JAN 22 2021



H.B. NO. 6605

Report Title:

County Lifeguards; Rescue, Resuscitative, or Other Lifeguard Services; Employing County; Exception to Liability

Description:

Establishes an exception to liability for a person qualified as a county lifeguard and the lifeguard's employing county if the lifeguard renders rescue, resuscitative, or other lifeguard services without remuneration or expectation of remuneration on a beach or in the ocean while in the scope of employment as a county lifeguard, for civil damages resulting from the person's acts or omissions while providing rescue, resuscitative, or other lifeguard services, except for damages that may result from the person's gross negligence or wanton acts or omissions.

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