

JAN 22 2021

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1 SECTION 1. The legislature finds that the liability
2 protections afforded to lifeguards in Act 170, Session Laws of
3 Hawaii 2002, were repealed on June 30, 2017. Act 170 provided
4 liability protection for lifeguard services on the beach or in
5 the ocean, except for gross negligence or wanton acts or
6 omissions. This limited liability protection was made necessary
7 because some counties would not provide lifeguard services at
8 state beach parks, due to the fear of potential liability that
9 might ensue. The legislature finds that Act 170 created a
10 climate in which lifeguard services could be provided by the
11 counties without fear of liability and, therefore, is a life
12 saving measure that should be reestablished.

13 Accordingly, the purpose of this Act is to permanently
14 reinstate the liability protections previously afforded for
15 lifeguard services.



SECTION 2. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§663- Exception to liability for county lifeguard services. (a) For the purposes of this section:

"County lifeguard" means a person employed as a lifeguard by a county of this State.

"Employing county" means the county employing a county lifeguard.

(b) Notwithstanding any other law to the contrary, neither a county lifeguard, the employing county, nor the State shall be liable for any civil damages resulting from any act or omission of the lifeguard while providing rescue, resuscitative, or other lifeguard services on the beach or in the ocean in the scope of employment as a county lifeguard; provided that this exception from liability shall not apply when the claim for civil damages arises from a county lifeguard's alleged gross negligence or wanton act or omission."

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



S.B. NO. 440

1 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: _____

M. J. P. W.

By Request



S.B. NO. 440

Report Title:

Kauai County Package; Tort Liability; Lifeguards

Description:

Permanently reinstates the liability protections previously afforded to county lifeguards.

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