

## ACT 145

S.B. NO. 2087

A Bill for an Act Relating to Emergency Rescue Devices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in Hawaii nearly half of all non-resident fatal injuries are caused by drowning, and nearly eighty per cent of these drownings occur in the ocean. Although lifeguards work tirelessly to protect residents and visitors in Hawaii's oceans, many beaches throughout the State do not have lifeguards present. Warning signs deter many; however, one person each week on average drowns in the ocean in Hawaii. The use of rescue equipment makes a rescue safer for anyone attempting to assist a drowning victim. The primary piece of rescue equipment used by lifeguards is the rescue tube.

The legislature further finds that placement of rescue tubes on Kauai, and expanding throughout the State, has led to countless rescues of drowning victims. Rescue tubes are easy to use for ordinary citizens in rescuing victims and cost effective to provide on a widespread basis.

The purpose of this Act is to provide legal protections under the Good Samaritan Law for owners of premises on which rescue tubes are located and protections for rescuers who use rescue tubes, to guard against liability actions and to encourage placement and use of these lifesaving emergency rescue devices.

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

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

(c) Any physician or physician assistant licensed to practice under the laws of this State or any other state who in good faith renders emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration, shall not be liable for any civil damages, if the physician or physician assistant exercises that standard of care expected of similar physicians or physician assistants under similar circumstances. Any physician who supervises a physician assistant providing emergency medical care pursuant to this section shall not be required to meet the requirements set forth in chapter 453 regarding supervising physicians.

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

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

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

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

(g) Any person who in good faith, without remuneration or expectation of remuneration, attempts to rescue a person in immediate danger of loss of life by use of a rescue tube, regardless of where the rescue tube that is used is located, shall not be liable for any civil damages resulting from any act or omission except as may result from the person's gross negligence or wanton acts or omissions.

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

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

- (1) Any other duty imposed by law regarding the designation and training of persons or employees;
- (2) Any other duty imposed by provisions regarding the maintenance of equipment to be used for resuscitation; or
- (3) Liability for any damages resulting from gross negligence, or wanton acts or omissions.

~~(h)~~ (i) For the purposes of this section:

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

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

"Rescue team" means a special group of physicians, basic life support personnel, advanced life support personnel, surgeons, nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been

designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to provide such support and resuscitate persons who are in immediate danger of loss of life in cases of emergency.

“Rescue tube” means a flotation device used for water rescues that helps support the victim’s and rescuer’s weight.”

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.

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

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

(Approved July 6, 2018.)