



COMMITTEE ON JUDICIARY

Senator Brian T. Taniguchi, Chair

Senator Karl Rhoads, Vice Chair

NOTICE OF DECISION MAKING

DATE: Thursday, March 1, 2018

TIME: 10:00 a.m.

PLACE: Conference Room 016

**TESTIMONY OF THE OCEAN TOURISM COALITION IN STRONG SUPPORT OF
SB2087,SD1**

**Chair Senator Taniguchi, Vice Chair Senator Rhoads and Members of the
Judiciary Committee:**

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC)

The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. . Many of them have been in business for several decades and are an important and valued part of their respective communities. These companies have a stellar track record in ocean safety and provide a safe venue for Ocean Recreation to tens of thousands of tourists each month under the supervision of well trained staff which is required by the US Coast Guard for all Certified Small Passenger Vessels.

Many of these vessels have rescue equipment such as Flootation Devices, Bottled Oxygen, AED's, and First Aid. This has led to the saving of many lives that likely would have otherwise been lost.

OTC Strongly supports SB2087, SD1 and urges its passing.

Sincerely,

James E. Coon, President OTC

SB-2087-SD-1

Submitted on: 2/27/2018 4:38:28 PM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Branch Lotspeich	Testifying for Rescue Tube Foundation, Inc.	Support	No

Comments:

Branch Lotspeich
Executive Director
Rescue Tube Foundation, Inc.
4350 Kahili Makai St.
Kilauea, HI 96754
rescuetubefoundation.org

February 27, 2018

To: Committee on Judiciary

Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair

Re: Hearing on. 4/1/18, 10 AM

Testimony in favor of SB 2087 SD1 as written

Dear Senators Chair Taniguchi, Vice-Chair Rhoads, and Senators of the JDC Committee:

As the Executive Director of the Rescue Tube Foundation incorporated 8 years ago here in Hawaii, I have been privileged to know first hand the lifesaving successes of public Rescue Tubes in Hawaii. As a Rotarian I have been involved in an effort to give away 50 AEDs on the island of Kauai.

I am writing to give my strong support for the passage of SB 2087 SD1 as written.

This bill has two separate components: one providing liability protection to property owners that install Rescue Tube Stations and/or AEDs on their property and the other to

provide liability protection to the heroes of our community that chose to use a Rescue Tube to save the life of a swimmer in distress.

Liability protection for a Good Samaritan who uses an AED has already been added to the Good Samaritan law and SB 2087 SD1 is now just logically adding protection for the amazing property owners who install a public AED on their property. As we in Rotary have been giving away AEDs, it has been our experience that many property owners are reluctant to install an AED for fear of possible litigation if it is used. SB 2087 SD1 provides the liability protection that will increase the presence of AEDs in Hawaii and save lives. These property owners should be honored for their commitment to public safety and not live in fear of a litigious society.

Hawaii averages 65 drownings per year, the leading cause of injury-related non-resident deaths. There are over 9 years of experience in Hawaii placing and using public Rescue Tubes. On Kauai we know of 87 uses affecting 148 people of whom it is estimated by Dr. Monty Downs, ER doctor at Wilcox Hospital on Kauai, that at least 25 lives have been saved as a direct result of the use of public Rescue Tubes. No rescuer has been injured using a public Rescue Tube.

In ocean safety, my first recommendation is that one should always swim near lifeguards, but Hawaii has over 450 beaches and only 79 lifeguard towers. It is simply not practical.

No rescuer whether professional, family member or Good Samaritan, should ever go into the water without a personal floatation device such as a Rescue Tube. A public Rescue Tube is there to protect the rescuer, increasing the probability of a safe rescue of a swimmer in distress.

If it were your son or daughter in trouble in the ocean, what would you do?

The public Rescue Tube provides safe floatation for rescuer and distressed swimmer until lifeguards arrive.

Our experience shows that tragic double drownings are probably avoidable when public Rescue Tubes are used. We have not had a double drowning on Kauai since the Rescue Tube Program began almost 10 years ago.

Family members and Good Samaritans should not be in fear of possible litigation, but need to know they are supported in their lifesaving efforts by the liability protection given in SB 2087 SD1.

As to specific language, I am not a lawyer, but after consulting with several lawyers, I feel that the argument made by previous testimony that subsection (g) is redundant does not reflect that protection specifically for AED users is already in the current Good Samaritan law and adding users of Rescue Tubes only adds to and does not harm the intent of the law. I am told that there is no case law that would suggest otherwise.

It is for these reasons that I strongly ask you to vote for our community's safety, vote in favor of SB 2087 SD1 as written.

Respectfully Submitted,

Branch Lotspeich

SB-2087-SD-1

Submitted on: 2/27/2018 1:05:16 PM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Testifying for Quicksilver Charters	Support	No

Comments:

SB-2087-SD-1

Submitted on: 2/27/2018 1:05:46 PM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Kasper	Testifying for Calypso Charters	Support	No

Comments:

SB-2087-SD-1

Submitted on: 2/27/2018 9:30:03 PM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Peggy Oyama	Individual	Support	No

Comments:

I wish to express my support for SB2087 SD1 because it would help save lives of both tourists and residents. I am speaking as a private citizen, but I became involved in promoting rescue tubes through the Hawaii Kai Lions Club. I do not represent the Hawaii Kai Lions Club in my testimony.

Currently, private landowners are reluctant to post rescue tubes on their property due to liability concerns. In promoting rescue tubes on Oahu, I've spoken with some 11 clubs/groups and local people (approximately 230 people in total), and the recurring concern has been liability issues for private landowners who would post rescue tubes on their property. There was also concern for private landowners if a rescue tube they'd posted on their property went missing or was stolen. If someone drowned, would the landowner be held liable because someone may have relied on the rescue tube being there, when it had actually been stolen?

In order to promote the use of life-saving rescue tubes in Hawaii, I ask that you pass this bill to encourage organizations to promote and sponsor the use of rescue tubes, encourage private landowners to post rescue tubes on their property without the threat of legal repercussion, and their use by other Good Samaritans in their efforts to save lives. Please help us to save lives by passing this bill.

Thank you.

Peggy Oyama
1072 Kaumoku Street
Honolulu, HI 96825

SB-2087-SD-1

Submitted on: 2/28/2018 2:37:42 AM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

DEMOCRATIC PARTY OF HAWAI'I

TO THE COMMITTEE ON JUDICIARY

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, March 1, 2018

10:00 A.M.

Hawaii State Capitol, Conference Room 016

RE: Testimony in Support of **SB2087 SD1**, RELATING TO EMERGENCY RESCUE DEVICES

To the Honorable Brian T. Taniguchi, Chair; the Honorable Karl Rhoads, Vice-Chair, and Members of the Committee on Judiciary:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No. **2087 SD1**, relating to Emergency Rescue Device; Rescue Tube; Automated External Defibrillator; Good Samaritan Law; and Liability.

The OCC Legislative Priorities Committee is in favor of Senate Bill No. **2087 SD1** and support its passage.

Senate Bill No. **2087 SD1** is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it amends the Good Samaritan Law to provide liability exemptions for owners and operators of any premises, property, or facility where automated external defibrillators and rescue tubes are located for the storage, maintenance, or use of the automated external defibrillators or rescue tubes and provides liability exemptions for rescuers who attempt to rescue a person with a rescue tube.

Specifically, the DPH Platform states, "We support community health initiatives that provide opportunities for the overall health of communities through strategic projects and programs focusing on increased interaction and physical activities among all age groups. (Platform of the DPH, P. 7, Lines 378-380 (2016)).

Given that Senate Bill No. **2087 SD1** amends the Good Samaritan Law to provide liability exemptions for owners and operators of any premises, property, or facility where automated external defibrillators and rescue tubes are located for the storage, maintenance, or use of the automated external defibrillators or rescue tubes and provides liability exemptions for rescuers who attempt to rescue a person with a rescue tube, it is the position of the OCC Legislative Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

SB-2087-SD-1

Submitted on: 2/28/2018 4:47:51 AM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Foster	Testifying for AED Institute	Support	No

Comments:

Testimony Supporting S.B. 2087

RELATING TO EMERGENCY RESCUE DEVICES.

Amends the Good Samaritan Law to provide liability exemptions for owners of premises where automated external defibrillators and rescue tubes are located. Provides liability exemptions for rescuers who attempt to rescue a person with a rescue tube.

Date: Thursday, March 1, 2018

Time: 10:00am

Place: Conference Room 016

State Capitol

415 South Beretania Street

Disclosure: Owner and President of AED Institute, Hawaii's leading distributor of AEDs, responsible for managing more than 500 clients with more than 3,000 Hawaii based AEDs, and the current contractor for Department of Transportation, Airport Division, Harbor Division, City and County of Honolulu, County of Kauai Fire and Police plus many others.

To: Chair Clarence K. Nishihara and Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs and Chair Karl Rhoads and Members of the Senate Committee on Water and Land

For the last fourteen years my company has focused on implementing AED Programs across the state of Hawaii. In 2007, legislators improved the Good Samaritan Law to limit the liability of any rescuer who was called into action in an unexpected moment to save another person's life. This legislation was introduced after three lives were saved in 45 days within the newly established Airport AED Program. Bystanders took fast

action utilizing the recently installed AEDs within the airports. Survival rates quickly escalated from a 0% survival rate to a 100% survival rate.

Today, eleven years later, there have been fifty-two cardiac arrests within our airports, thirty-two of these victims have arrived at the hospital with a pulse leading to a 61% survival rate compared to a 10-12% within our community. These successful numbers are because Good Samaritans within our airports took action by starting CPR and utilizing AEDs and did not wait for the professionals to arrive. Today we know waiting for the professionals is not acceptable, action to save these victim's lives needs to occur immediately and without hesitation.

Per a new law starting January 1, 2018 every City and County of Honolulu owned or operated building must have publicly accessible AEDs and every new building with 50 or more people must install AEDs on every floor. This law will save more lives within our community but only if our citizens have no fear of liability or hurting someone.

AEDs are easy to use with or without training. The devices emit simple verbal prompts for even an untrained rescuer. You cannot hurt anyone with an AED. If there is a problem within the AED it will beep or chirp for several days to alert an owner of an issue. Manufacturers recommend that AEDs be inspected periodically for readiness. These simple steps are well described in the owner's manuals of each AED. As long as the AEDs are inspected routinely, the manufacturer offers full indemnification to the end-user should the AED fail to work as intended.

Yes, AEDs and rescue tubes need to be maintained and ready for use at all times but even more important is to ensure that our citizens have no fear of liability when attempting to save a victim in need. Our citizens are not paid professional responders, they may train for this type of an event a couple times in their lifetime. Things happen, and if a law is in place that protects these potential Good Samaritans from liability in an emergency situation, their prompt actions will help to save lives.

An American Heart Association AED study released yesterday showed results of: (study attached to this testimony) <https://www.news-medical.net/news/20180227/Survival-of-cardiac-arrest-victims-improves-when-bystanders-use-AED-shock-therapy.aspx>

- Bystanders used an AED in 18.8 percent of these cases.
- Cardiac arrest victims who received a shock from a publicly-available AED had far greater chances of survival and being discharged from the hospital than those who did not; 66.5 percent versus 43 percent.
- Cardiac arrest victims who received a shock from a publicly-available AED that was administered by a bystander had 2.62 times higher odds of survival to hospital discharge and 2.73 times more favorable outcomes for functioning compared to victims who first received an AED shock after emergency responders arrived.

- Victims who received an AED shock from a bystander (57.1 percent) using a publicly-available device instead of having to wait for emergency responders (32.7 percent) had near normal function and better outcomes.
- Without a bystander using AED shock therapy, 70 percent of cardiac arrest patients either died or survived with impaired brain function.

As a nurse I have a mission and a passion to save lives too long to be lost. As legislators, I urge you to ensure that the language in this bill, increases access to emergency equipment yet decreases any fear of responding to an emergency, whether using a rescue tube, an AED, or any other emergency device so that every Hawaii resident feels confident that they can do the right thing in a moment of crisis. With more life-saving equipment available in our community, more lives will be saved.

Thank you very much,

Pamela Foster, RN

President and Owner of AED Institute

801 S. King Street

Honolulu, HI 96813

808-440-8988

SB-2087-SD-1

Submitted on: 2/27/2018 10:16:19 PM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Loyal Mehrhoff	Individual	Support	No

Comments:

I wish to express my support for Senate Bill 2087, SD1. Strong language is needed to protect good samaritans and to reduce land owner liability for those who post rescue tubes on their property. Currently, land owners are afraid to post these life saving emergency devices, so we need law to allay their concerns. Thank you, Loyal A. Mehrhoff, PhD, 1072 Kaumoku Street, Honolulu, HI 96825.

SB-2087-SD-1

Submitted on: 2/28/2018 9:28:32 AM

Testimony for JDC on 3/1/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey c Goodman	Testifying for Rotary Club of Hanalei Bay	Support	No

Comments:

It is imperative that we support Bill 2087 to protect those individuals and corporations who generously donate space for AED defibrillators and rescue tubes.

There is a great reluctance for Corporation businesses and individual Property Owners to place the life-saving equipment on their properties for fear of liability. This is a fact.

Our current Good Samaritan law is adequate for the responder protecting him from liability in an effort to save lives. The individual or corporation that places these life savingsaving devices on their properties is still a question to be resolved by Senate Bill 2087.

Please put your signature for a yes vote on Senate Bill 2087

Jeffrey C. Goodman, M.D.

Senate, Hawaii State Legislature
Committee on Judiciary

Committee Hearing on SB 2087 SD1 – **Relating to Emergency Rescue Devices**

Thursday, March 1, 2018

10:00 a.m., Conference Room 016

Chair Brian T. Taniguchi, Vice Chair Karl Rhoads and members of the Senate Committee on Judiciary:

Thank you for this opportunity to submit testimony in **support of Senate Bill 2087 SD1**.

I wish to express my support for SB2087 SD1 regarding emergency rescue devices because it would help save lives of both Hawaii tourists and residents. Although I am Immediate Past District Governor of the Hawaii Lions and a member of the Manoa Lions Club, I am submitting testimony as a private citizen

I am aware of the liability concerns raised by those in opposition to this measure and understand it's important that this bill have broad, reasonable guidelines by which a reasonable person would be inclined to post a rescue tube, without fear of unreasonable liability repercussions.

In order to promote the use of life-saving rescue tubes in Hawaii, I ask that you please pass SB 2087 SD1 to encourage organizations to promote and sponsor the use of rescue tubes and encourage private landowners to post rescue tubes on their property without the threat of legal repercussion, and their use by other Good Samaritans in their efforts to save lives.

Thank you very much for your kind attention and consideration.

Nadine N. Nishioka
1363 Hoona Street
Pearl City, Hawaii 96782

Executive Director

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) REGARDING S.B. 2087, SD1**

Date: Thursday March 1, 2018

Time: 10:00 a.m.

Room: 016

To: Chair Brian T. Taniguchi and Members of the Senate Committee on Judiciary

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding S.B. 2087, SD1, Relating to Emergency Rescue Devices as currently drafted.

We agree with the intent of the bill however we ask for the following amendments:

At page 5, lines 7-11, the bill grants immunity from negligence to the owner or operator of premises where an AED is located. We ask that this section be deleted because the owner or operator of premises where an AED is located should retain the duty to maintain the AED in accordance with its care and maintenance instructions. When a member of the public finds himself or herself in a situation that necessitates the use of an AED, they have a reasonable expectation that it will be in good working order. Therefore, a reasonable care standard is appropriate.

Section (g) at page 5, line 19 through page 6, line 9, the bill grants immunity to individuals who use a rescue tube in attempts to rescue a person and to owners or operators of premises where a rescue tube is located. We ask that section (g) be deleted because it is poor public policy to link liability immunity to a piece of equipment rather than to conduct. The Good Samaritan law, Hawaii Revised Statutes Section 663-1.5 already provides that:

(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.

Thus, the intent of this bill has already been addressed by the existing laws in place. Section (g) is redundant and the use of rescue tubes should not be afforded additional immunity.

Finally, as similarly stated above, section (g) of this bill grants immunity from negligence to the owner or operator of premises where a rescue tube is located. Likewise, this section should be deleted because the owner or operator of premises where a rescue tube is located should retain the duty to maintain the rescue tube in accordance with its care and maintenance instructions. When a member of the public is in a situation when they must use a rescue tube, they have a reasonable expectation that it will be in good working order.

Thank you for considering our testimony.