
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 PART I

2 SECTION 1. While it is the policy of the legislature to
3 encourage the private sector to assist in emergencies or
4 disasters, the legislature finds that there is an added need to
5 encourage the private sector to assist in providing emergency
6 shelter during emergencies or disasters. In many cases, the
7 private entity is reluctant to make facilities or property
8 available to a person for use as a shelter because of liability
9 concerns.

10 The purpose of this part is to prohibit the denial of
11 emergency shelter by places of public accommodation and clarify
12 that places of public accommodation and their agents and
13 employees are protected from liability when providing emergency
14 shelter.

15 SECTION 2. Chapter 127A, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:



1 "§127A- Places of public accommodation; prohibition
2 against denial of shelter. (a) Whenever the State, or any
3 portion thereof, is the subject of any emergency alert that
4 advises the public to immediately seek shelter, including an
5 alert of an incoming missile, a place of public accommodation
6 shall not deny shelter to any person who is inside the place of
7 public accommodation or who is in the immediate vicinity of the
8 place of public accommodation.

9 (b) The prohibition under subsection (a) shall remain in
10 effect until a federal, state, or county emergency management
11 official advises the public that the emergency condition no
12 longer exists and that it is safe to resume normal activities.

13 (c) A complaint involving an alleged violation of
14 subsection (a) shall be made directly to the department of the
15 attorney general.

16 (d) The owner of a public accommodation that violates
17 subsection (a) shall be subject to a civil penalty of not less
18 than \$500 nor more than \$10,000 for each violation. Each day of
19 violation shall constitute a separate offense. All penalties
20 collected pursuant to this section shall be deposited into a
21 trust account established pursuant to section 127A-16(e).



1 (e) Except in cases of wilful misconduct, gross
2 negligence, or recklessness, no public accommodation or any of
3 its agents or employees that provide shelter pursuant to
4 subsection (a) shall be civilly liable for the death of or
5 injury to persons, or property damage, that results from any act
6 or omission in the course of providing shelter.

7 (f) The department of the attorney general shall
8 investigate complaints involving places of public accommodation
9 that have allegedly denied shelter to persons in violation of
10 this section. If the department of the attorney general
11 determines, based on credible evidence, that a violation has
12 occurred, the department of the attorney general shall impose
13 and enforce the penalty provided for in subsection (d).

14 (g) As used in this section, "place of public
15 accommodation" has the same meaning as in section 489-2."

16 SECTION 3. Section 127A-16, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§127A-16 Major disaster fund.** (a) The director shall
19 submit requests to the legislature to appropriate from the
20 general revenues of the State sufficient moneys as may be
21 necessary for expenditure by or under the direction of the



1 governor for immediate relief in response to an emergency or
2 disaster in any part of the State; provided that:

3 (1) The governor has issued a proclamation of a state of
4 emergency;

5 (2) The governor may not expend in excess of \$5,000,000
6 for immediate relief as a result of any single
7 emergency or disaster; and

8 (3) In addition to the funds in paragraph (2), an
9 additional \$5,000,000 may be made available solely for
10 the purpose of matching federal disaster relief funds
11 when [~~these~~] those funds become available to the State
12 following a presidential disaster declaration.

13 In expending the moneys, the governor may allot any portion
14 thereof to any agency, office, or employee of the State or a
15 county for the most efficient relief for the population.

16 Notwithstanding this subsection, the only exception to
17 paragraphs (1), (2), and (3) is that the director may use up to
18 \$100,000 per year to support emergency reserve corps training.

19 (b) No later than one month after any allotment by the
20 governor or the expenditure of any fund moneys, the director



1 shall report to the legislature on the purpose of the allotment
2 or expenditure.

3 (c) Except as provided in subsection (d), federal
4 reimbursement moneys for disaster relief shall be deemed to be
5 trust moneys and may be deposited into a trust account with and
6 under the control of the department of defense. [~~These~~] Those
7 moneys and any interest earned thereon shall be used for the
8 purpose identified in subsection (a) and shall not lapse to the
9 general fund.

10 (d) In cases in which the department of education expends
11 the funds appropriated to the department for purposes deemed to
12 be reimbursable by federal reimbursement moneys for disaster
13 relief, the federal reimbursement moneys shall not lapse to the
14 general fund and shall be credited directly to the department of
15 education without regard to whether the original appropriation
16 has lapsed. [~~Such~~] Those funds shall carry over in accordance
17 with section 37-41.5(c).

18 (e) Moneys collected by the department of the attorney
19 general pursuant to its enforcement of section 127A- shall be
20 deemed to be trust moneys and shall be deposited into a trust
21 account with and under the control of the department of defense.



1 Those moneys and any interest earned thereon shall be used for
2 the purpose identified in subsection (a) and shall not lapse to
3 the general fund."

4 PART II

5 SECTION 4. In 2012, the legislature passed Act 291 which
6 exempted a private property owner who provides emergency access
7 to a person in good faith during a disaster from liability for
8 injury or damage. The false alert of an inbound ballistic
9 missile on January 13, 2018, raised the issue that this
10 protection may not apply to certain businesses because those
11 sheltering there may be paying guests or tenants. The
12 legislature finds that there is a need to clarify that the
13 compensation paid by guests or tenants should not disqualify
14 these property owners from the protections afforded by the
15 legislature.

16 The false alert also raised the issue that there may be
17 circumstances where shelter is provided to the public in
18 facilities or properties that are also in the business of
19 selling commodities and that liability protection may not apply
20 to these businesses if they attempt to sell commodities to those
21 people being sheltered. The legislature finds that there is a



1 need to clarify that while persons are sheltered, the owner of
2 property made available as a shelter should be allowed to sell
3 commodities if its use as a shelter is required over a period of
4 time.

5 The purpose of this part is to clarify that:

- 6 (1) Hotels, apartments, condominiums, hospitals,
7 healthcare facilities, and any facility that is
8 receiving compensation from a person sheltered there
9 shall not be disqualified from the civil liability
10 exemption for providing emergency access to land,
11 shelter, and subsistence during a disaster; and
- 12 (2) Owners of properties made available for shelter use
13 are not excluded from the civil liability exemption
14 for providing emergency access to land, if the owner
15 sells commodities to those in the shelter; provided
16 the owner is not engaged in price gouging.

17 SECTION 5. Section 663-10.7, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) For the purposes of this section:

20 "Commodity" means any good necessary for the health,
21 safety, and welfare of the people of Hawaii; provided that this



1 term shall include, but not be limited to materials,
2 merchandise, supplies, equipment, resources, and other articles
3 of commerce that shall include food, water, ice, medication,
4 chemicals, or petroleum products.

5 "Disaster" means a nonroutine event that exceeds the
6 capacity of persons in the affected area to respond to it in
7 such a way as to save lives, preserve property, or to maintain
8 the social, ecological, economic, or political stability of the
9 affected area.

10 "Emergency" means a situation in which the life or health
11 of a person is in jeopardy due to a disaster requiring immediate
12 assistance.

13 "Owner" means the possessor of a fee interest, or a tenant,
14 lessee, occupant, person, group, club, partnership, family,
15 organization, entity, or corporation that has control,
16 possession, or use of the land, and its members, agents,
17 partners, representatives, shareholders, and employees.

18 "Remuneration" does not mean:

19 (1) Any compensation or consideration paid by or on behalf
20 of any guest or person for transient accommodation
21 lodging;



- 1 (2) Any compensation or consideration paid for any
2 patient, resident, or ward present or residing in any
3 hospital, community-based care home, home-based care
4 home, or healthcare agency of any type licensed by the
5 department of health or the department of human
6 services and used as a private shelter under this
7 section; provided that the protections afforded by
8 this section shall not extend beyond the use of the
9 private shelter under this section and do not apply to
10 any other duty or standard of care owed to any
11 patient, resident, or ward;
- 12 (3) Any compensation or consideration paid by or on behalf
13 of any minor or student of any age in any day care,
14 preschool, elementary school, middle school, or any
15 other educational facility used as a private shelter
16 under this section; and
- 17 (4) Any compensation or consideration paid to an owner for
18 any commodity by a person being sheltered during the
19 disaster or emergency; provided there shall be
20 prohibited any increase in the selling price of any



1 commodity, whether at the retail or wholesale level,
2 in the private property being used as a shelter."

3 PART III

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

7 SECTION 7. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

Emergencies; Disasters; Public Accommodations; Shelter; Civil Liability Exemption

Description:

Prohibits places of public accommodation from denying shelter to any person when an emergency alert advises the public to immediately seek shelter. Provides for a civil penalty for each violation. Provides immunity from civil liability, with certain exceptions. Clarifies that the civil liability exemption applies to facilities receiving compensation and to property owners who sell commodities in the absence of price gouging.
(HB2693 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

