

JAN 19 2018

A BILL FOR AN ACT

RELATING TO EMERGENCY RESCUE DEVICES.

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

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

11 The legislature further finds that placement of automated
12 external defibrillators, known as AEDs, in work places and
13 public buildings has led to rescue of countless individuals
14 experiencing cardiac arrest. Similarly, placement of rescue
15 tubes on Kauai, and expanding throughout the State, has led to
16 countless rescues of drowning victims. Rescue tubes are easy to



1 use for ordinary citizens in rescuing victims and cost effective
2 to provide on a widespread basis.

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

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

11 **"§663-1.5 Exception to liability.** (a) Any person who in
12 good faith renders emergency care, without remuneration or
13 expectation of remuneration, at the scene of an accident or
14 emergency to a victim of the accident or emergency shall not be
15 liable for any civil damages resulting from the person's acts or
16 omissions, except for such damages as may result from the
17 person's gross negligence or wanton acts or omissions.

18 (b) No act or omission of any rescue team or physician
19 working in direct communication with a rescue team operating in
20 conjunction with a hospital or an authorized emergency vehicle
21 of the hospital or the State or county, while attempting to



1 resuscitate any person who is in immediate danger of loss of
2 life, shall impose any liability upon the rescue team, the
3 physicians, or the owners or operators of such hospital or
4 authorized emergency vehicle, if good faith is exercised.

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

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



1 required to meet the requirements set forth in chapter 453
2 regarding supervising physicians.

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

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

18 Any person, including an employer, who provides for an
19 automated external defibrillator or an automated external
20 defibrillator training program shall not be vicariously liable
21 for any civil damages resulting from any act or omission of the



1 persons or employees who, in good faith and without remuneration
2 or the expectation of remuneration, attempt to resuscitate a
3 person in immediate danger of loss of life by administering an
4 automated external defibrillator, except as may result from a
5 person's or employer's gross negligence or wanton acts or
6 omissions.

7 The owner or operator of any premises, property, or
8 facility where an automated external defibrillator is located
9 shall not be liable for any civil damages resulting from any act
10 or omission except as may result from the owner or operator's
11 gross negligence or wanton acts or omissions.

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

19 (g) Any person who in good faith, without remuneration or
20 expectation of remuneration, attempts to rescue a person in
21 immediate danger of loss of life by use of a rescue tube,



1 regardless of where the rescue tube that is used is located,
2 shall not be liable for any civil damages resulting from any act
3 or omission except as may result from the person's gross
4 negligence or wanton acts or omissions.

5 The owner or operator of any premises, property, or
6 facility where a rescue tube is located shall not be liable for
7 any civil damages resulting from any act or omission except as
8 may result from the owner or operator's gross negligence or
9 wanton acts or omissions.

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

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

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

20 "Automated external defibrillator program" means an
21 appropriate training course that includes cardiopulmonary



1 resuscitation and proficiency in the use of an automated
2 external defibrillator.

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

6 "Rescue team" means a special group of physicians, basic
7 life support personnel, advanced life support personnel,
8 surgeons, nurses, volunteers, or employees of the owners or
9 operators of the hospital or authorized emergency vehicle who
10 have been trained in basic or advanced life support and have
11 been designated by the owners or operators of the hospital or
12 authorized emergency vehicle to attempt to provide such support
13 and resuscitate persons who are in immediate danger of loss of
14 life in cases of emergency.

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

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

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



S.B. NO. 2087

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

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INTRODUCED BY:

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S.B. NO. 2087

Report Title:

Emergency Rescue Device; Rescue Tube; Automated External Defibrillator; Good Samaritan Law; Liability

Description:

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.

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