

S.B. NO. 1318

JAN 22 2007

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**A BILL FOR AN ACT**

RELATING TO GOVERNMENT TORT LIABILITY.

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

1 SECTION 1. Act 190, Session Laws of Hawaii 1996, as  
2 amended by section 2 of Act 101, Session Laws of Hawaii 1999,  
3 and by section 2 of Act 170, Session Laws of Hawaii 2002, is  
4 amended by amending section 7 to read as follows:

5 "SECTION 7. This Act shall take effect on July 1, 1996[~~+~~  
6 ~~provided that this Act shall be repealed on June 30, 2007]~~."

7 SECTION 2. Act 170, Session Laws of Hawaii 2002, is  
8 amended by amending section 5 to read as follows:

9 "SECTION 5. This Act shall take effect upon its approval[~~+~~  
10 ~~provided that section 1 of this Act shall be repealed on June~~  
11 ~~30, 2007]~~."

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken.

14 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

BY REQUEST

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JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO GOVERNMENT TORT LIABILITY.

PURPOSE: The purpose of this bill is to make permanent the liability protections for warning signs in public beach park cases and the liability protections in lifeguard cases. At present, the warning sign liability protections provided in Act 190, Session Laws of Hawaii (SLH) 1996, as amended by Act 101, SLH 1999, and Act 170, SLH 2002, will sunset on June 30, 2007, as will the liability protections afforded to lifeguards in Act 170, SLH 2002.

MEANS: Amend section 7 of Act 190, SLH 1996, as amended by Act 101, SLH 1999, and Act 170, SLH 2002, and amend section 5 of Act 170, SLH 2002.

JUSTIFICATION: Act 190, SLH 1996, established a process by which a legally adequate warning system can be developed at public beach parks. Act 190 was intended to increase the public safety, reduce ocean-related accidents, and protect the State and counties from the unlimited liability they face with regard to activities in the ocean and at public beaches. As a result of Act 190, the public safety has in fact been increased by the design and placement of state-of-the-art warning signs. Indeed, these warning signs have been made more uniform throughout the State, and they serve as model signs for other governmental entities to use. This warning sign process has increased public safety and brought credit upon this State, and should be made permanent.

Similarly, Act 170, SLH 2002, provides liability protection for lifeguard services on the beach or in the ocean, except for

gross negligence or wanton acts or omissions. This limited liability protection was made necessary because some counties would not provide lifeguard services at state beach parks, due to the fear of potential liability that might ensue. Thus, Act 170 created a climate in which lifeguard services could be provided by the counties without fear of liability. This is a life-saving measure that deserves to be made permanent.

Impact on the public: The public in general will benefit from the increase in public safety as well as from the saving of public funds.

Impact on the department and other agencies: Department of Land and Natural Resources; counties

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

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OTHER AFFECTED AGENCIES: Judiciary.

EFFECTIVE DATE: Upon approval.