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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

December 12, 2019

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OFFICE OF THE  
COUNTY CLERK

The Honorable Kelly T. King  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair King:

**SUBJECT: 2020 MAUI COUNTY LEGISLATIVE PACKAGE**

May I request the attached proposed resolution, entitled "APPROVING FOR INCLUSION IN THE 2020 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL RELATING TO TORT LIABILITY," be placed on the next Council meeting agenda.

*Tamara A. M. Paltin*

TAMARA PALTIN  
Councilmember

Enclosure

COUNTY COMMUNICATION NO. 19-516

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
MAUI COUNTY LEGISLATIVE PACKAGE A  
STATE BILL RELATING TO TORT LIABILITY

WHEREAS, there is a need to support tort liability following the repeal of Act 170, Session Laws of Hawaii 2002, on June 30, 2017; and

WHEREAS, the permanent reinstatement of liability protections afforded for lifeguard services increases the level of safety for residents and visitors; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A" to reinstate tort liability is approved for inclusion in the 2020 Maui County Legislative Package; and
2. That certified copies of this resolution be transmitted to the Governor of the State of Hawaii, the President of the State Senate, the Speaker of the State House of Representatives, the County's delegation to the State Legislature, and the Mayor of the County of Maui.

REVISED:  
1ST DRAFT DATE:

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1       SECTION 1. The liability protections afforded to lifeguards  
2   in Act 170, Session Laws of Hawai'i 2002, were repealed on June  
3   30, 2017. Act 170 provided liability protection for lifeguard  
4   services on the beach or in the ocean, except for gross negligence  
5   or wanton acts or omissions. This limited liability protection  
6   was made necessary because some counties would not provide  
7   lifeguard services at state beach parks, due to the fear of  
8   potential liability that might ensue. The legislature finds that  
9   Act 170 created a climate in which lifeguard services could be  
10   provided by the counties without fear of liability and, therefore,  
11   is a life saving measure that should be reestablished.

12       The purpose of this Act is to permanently reinstate the  
13   liability protections previously afforded for lifeguard  
14   services.

15       SECTION 2. Chapter 663, Hawai'i Revised Statutes, is  
16   amended by adding a new section to part I to be appropriately  
17   designated and to read as follows:

\_\_\_\_.B. NO.\_\_\_\_

1       "S663-       Exception to liability for county lifeguard  
2 services. (a) For the purposes of this section:

3       "County lifeguard" means a person employed as a lifeguard by  
4 a county of this State.

5       "Employing county" means the county employing a county  
6 lifeguard.

7       (b) Notwithstanding any other law to the contrary, neither a  
8 county lifeguard, the employing county, nor the State shall be  
9 liable for any civil damages resulting from any act or omission of  
10 the lifeguard while providing rescue, resuscitative, or other  
11 lifeguard services on the beach or in the ocean in the scope of  
12 employment as a county lifeguard; provided that this exception  
13 from liability shall not apply when the claim for civil damages  
14 arises from a county lifeguard's alleged gross negligence or wanton  
15 act or omission."

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

19       SECTION 4. New statutory material is underscored.

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

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

22   BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Lifeguard Services exemption from liability

**Description:**

Makes an exemption from tort liability for the State and counties arising from lifeguard services, except for gross negligence or wanton acts or missions.

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