

§46-35 Firefighters, counsel for. Whenever any firefighter is prosecuted for any crime for acts done in the performance of the firefighter's duty as a firefighter, or any traffic violation while in the course of operating any firefighting apparatus or other authorized emergency vehicle of the fire department, or sued in any civil cause for acts done in the performance of the firefighter's duty as a firefighter, the firefighter shall be represented and defended,

(1) In the criminal and traffic violations proceedings by an attorney to be employed and paid by the council, and

(2) In the civil case by the corporation counsel or county attorney, as the case may be. [L 1970, c 178, §1; am L 1983, c 124, §15; gen ch 1985]

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§291-11.6 Mandatory use of seat belts, when, penalty. (a) Except as otherwise provided by law, no person:

(1) Shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and any passengers in the front or back seat of the motor vehicle are restrained by a seat belt assembly if between the ages of four and fourteen, or are restrained pursuant to section 291-11.5 if under the age of four;

(2) If fifteen years of age or more shall be a passenger in the front seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly; and

(3) If between the ages of fifteen and seventeen, shall be a passenger in the back seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly.

As used in this section "seat belt assembly" means the seat belt assembly required to be in the motor vehicle under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the federal National Traffic and Motor Vehicle Safety Act of 1966, as amended, unless original replacement seat belt assemblies are not readily available. If replacement assemblies are not readily available, seat belts of federally approved materials with similar protective characteristics may be used. Such replacement seat belt assemblies shall be permanently marked by the belt manufacturer indicating compliance with all applicable federal standards.

(b) The passengers of the following motor vehicles shall be exempt from the requirements of this section: emergency and mass transit vehicles. Further exemptions from this section may be established by rules adopted by the department of transportation pursuant to chapter 91.

As used in this section, unless the context otherwise requires:

"Emergency vehicle" means an ambulance, a firefighting or rescue vehicle, or a police vehicle while on duty.

"Mass transit vehicle" means a bus, including a school bus (but excluding a charter or sightseeing service bus) with a gross vehicle weight rating that is over 10,000 pounds, whether publicly or privately owned, which provides service to the general public or provides special service on a regular or continuing basis.

(c) No person shall be guilty of violating this section if:

(1) The person is in a motor vehicle which is not required to be equipped with a seat belt assembly under any federal motor vehicle safety standard unless the vehicle is in fact equipped with a seat belt assembly;

(2) The person not restrained by a seat belt assembly is in a vehicle in which the number of persons exceeds the number of seat belt assemblies available in the vehicle or the number of seat belt assemblies originally installed in the vehicle, whichever is greater; provided that all available seat belt assemblies are being used to restrain passengers;

(3) The person not restrained by a seat belt assembly has a condition which prevents appropriate restraint by the seat belt assembly; provided such condition is duly certified by a physician who shall state the nature of the condition, as well as the reason such restraint is inappropriate;

(4) The person not restrained by a seat belt assembly is operating a taxicab or other motor vehicle utilized in performing a bona fide metered taxicab service which is regulated under chapter 269 or by county ordinance and is carrying passengers in the vehicle in the course of performing taxicab services; or

(5) Otherwise exempted by rules adopted by the department of transportation pursuant to chapter 91.

(d) This section shall not be deemed to change existing laws, rules, or procedures pertaining to a trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident.

(e) A person who fails to comply with the requirements of this section shall be subject to a fine of \$45 for each violation and a surcharge of \$10 which shall be deposited into the neurotrauma special fund. [L 1985, c 235, §1; am L 1986, c 40, §1 and c 238, §1; am L 1987, c 266, §1; am L 1988, c 223, §1; am L 1997, c 60, §5; am L 2000, c 294, §1; am L 2002, c 160, §6]

Attorney General Opinions

Operator of three-wheeled vehicle registered as a motorcycle is not required to wear a seat belt. Att. Gen. Op. 92-03.

Case Notes

Statute applied to defendant, where defendant argued that traffic statutes involved only applied to businesses and state vehicles; statute did not violate defendant's freedom of movement. 77 H. 222 (App.), 883 P.2d 644.

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[\$291C-128] Following emergency vehicle prohibited. The driver of any vehicle other than one on official business shall not follow any emergency vehicle traveling in response to an emergency closer than five hundred feet or drive or park such vehicle within five hundred feet of where the emergency vehicle has stopped in answer to a fire alarm. [L 1971, c 150, pt of §1]

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§291C-26 Authorized emergency vehicles. (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm and vehicles used by police officers while in the performance of a police function, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand irrespective of the provisions of this chapter;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as the driver does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions;

(5) Drive on the shoulder and median of roadways; and

(6) Drive in controlled-access roadways, highways, and facilities.

(c) The exemptions granted in subsection (b) to an authorized emergency vehicle shall apply only when the vehicle is making use of authorized audible and visual signals, except as otherwise provided by county ordinance. This subsection shall not apply to police vehicles.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall those provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others. [L 1971, c 150, pt of §1; gen ch 1985; am L 2002, c 93, §1; am L 2003, c 112, §2]

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[§321-23.3] Volunteer emergency medical disaster response personnel.

(a) All volunteer emergency medical disaster response personnel including:

- (1) Physicians;
- (2) Psychologists;
- (3) Nurses;
- (4) Emergency medical technicians;
- (5) Social workers; and
- (6) Mobile intensive care technicians

licensed in the State, or employed by a health care facility, while engaged in the emergency response to a mass casualty event or disaster condition, including participation during periods of mass casualty and disaster management training, shall be deemed state employees or county employees, as the case may be, and shall have the powers, duties, rights, and privileges of such in the performance of their duties as prescribed by or under the authority of the governor or a county.

(b) For the purposes of this section, any physician licensed in the State having privileges and credentials at public or private health care facilities licensed in the State, shall be deemed as having credentials with the same medical staff privileges at other hospitals for the purpose of rendering professional medical care under a mass casualty or disaster condition.

(c) In the case of injury or death arising out of and in the performance of duty pursuant to this section, including duty performed during periods of training, all volunteer emergency medical disaster response personnel and their dependents shall be entitled to all of the benefits provided in chapter 386, including medical services and supplies. In the case of injury or death, no public official shall be excluded from coverage of chapter 386. Benefits shall be based on average weekly wages set forth in section 386-51, or based on earnings from the usual employment of the person, or

based on earnings at the rate of \$20 a week, whichever is most favorable to the claimant. Nothing in this section shall adversely affect the right of any person to receive any benefits or compensation under any act of Congress.

(d) Except in cases of wilful misconduct, the State, any county, or any volunteer emergency medical disaster response personnel engaged in the emergency response to a mass casualty event or disaster condition pursuant to this section (including volunteers whose services are accepted by any authorized person), shall not be liable for the death of or injury to persons, or for damage to property, as a result of any act or omission in the course of rendering professional medical care under a mass casualty event or disaster condition. No act or omission shall be imputed to the owner of any vehicle by reason of ownership thereof; provided that nothing in this section shall preclude recovery by any person for injury or damage sustained from the operation of any vehicle that may be insured under section 41D-8 to the extent of the insurance. Unless specifically provided, insurance effected under section 41D-8 shall not include coverage of such risk during a disaster emergency period.

(e) For the purposes of this section:

"Disaster condition" means a sudden catastrophic event that overwhelms natural order and causes loss of property or life and exceeds or disrupts the capabilities of available medical resources to receive and provide medical care within a community.

"Mass casualty event" means a number of casualties generated more or less simultaneously, that exceeds the ability to provide usual medical care including but not limited to an airplane crash, collapsed building, bombing, or hurricane. [L 1998, c 105, §1]

Revision Note

This section was renumbered from §321-228.5.

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[\$321-23] Catastrophic and traumatic emergency response program

established. (a) The director shall establish within the department a catastrophic and traumatic emergency response program to:

(1) Provide for the delivery of prompt psychological services in the event of a catastrophic event or traumatic emergency;

(2) Provide for critical incident stress debriefing for ambulance, fire, police, and other emergency service personnel;

(3) Provide for immediate delivery of psychological services to the residents and visitors;

(4) Coordinate the use of other public and private resources of post-disaster psychological services for the immediate and long-term delivery of psychological assistance to trauma victims; and

(5) Advise state government and emergency service personnel on psychological issues and trauma victim behavior in the planning of and responses to catastrophic events and traumatic emergencies.

(b) The director shall compile a list of qualified mental health professionals who are willing to serve on a catastrophic and traumatic emergency response team, giving priority to individuals with experience in dealing with catastrophic or traumatic emergency events. The director shall appoint at least one team of professionals from the list, making a reasonable effort to appoint at least one member from each island, except Niihau. If a qualified representative cannot be appointed from each island, the director, at a minimum, shall appoint one member from each county. Each team appointed shall serve for a period of four years, with one member who has specialized training in trauma care to be designated as the team leader; provided that the director shall have the flexibility of appointing additional special teams for shorter or longer periods of time as the need arises. Members of a catastrophic and traumatic emergency response team shall receive continuing professional education and training on

the provision of psychological assistance to be ready to provide services whenever a catastrophic event or traumatic emergency occurs. The team members shall be compensated for each day of service provided under this section, including participation in training required by the director, in accordance with a fee schedule to be established by the director pursuant to chapter 91.

(c) For purposes of this section, "catastrophic event or traumatic emergency" means any tragic occurrence that has resulted in:

(1) The loss of lives, infliction of injury, harm or suffering among humans, including hostage situations; or

(2) Extensive destruction of property.

The term includes, but shall not be limited to, disasters for which relief is provided under chapter 127.

(d) The team shall be activated by the director whenever the director finds that psychological assistance is appropriate following a catastrophic event or traumatic emergency.

(e) The director shall adopt rules under chapter 91 to implement the emergency response trauma program, which shall include the qualifications of and appointment process for catastrophic and traumatic emergency response team members. [L 1990, c 239, §3]

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§46-35 Firefighters, counsel for. Whenever any firefighter is prosecuted for any crime for acts done in the performance of the firefighter's duty as a firefighter, or any traffic violation while in the course of operating any firefighting apparatus or other authorized emergency vehicle of the fire department, or sued in any civil cause for acts done in the performance of the firefighter's duty as a firefighter, the firefighter shall be represented and defended,

(1) In the criminal and traffic violations proceedings by an attorney to be employed and paid by the council, and

(2) In the civil case by the corporation counsel or county attorney, as the case may be. [L 1970, c 178, §1; am L 1983, c 124, §15; gen ch 1985]

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§663-1.5 Exception to liability. (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.

(b) No act or omission of any rescue team or physician working in direct communication with a rescue team operating in conjunction with a hospital or an authorized emergency vehicle of the hospital or the State or county, while attempting to resuscitate any person who is in immediate danger of loss of life, shall impose any liability upon the rescue team, the physicians, or the owners or operators of such hospital or authorized emergency vehicle, if good faith is exercised.

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

(c) Any physician licensed to practice under the laws of this State or any other state who in good faith renders emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration, shall not be liable for any civil damages, if the physician exercises that standard of care expected of similar physicians under similar circumstances.

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

(e) Any person who successfully completes training under any automatic external defibrillator program administered by a physician

shall not be liable for any civil damages resulting from any act or omission while attempting in good faith, without remuneration or expectation of remuneration, to resuscitate a person in immediate danger of loss of life when administering any automatic external defibrillator, regardless of where the automatic external defibrillator that is used is located, except as may result from the person's gross negligence or wanton acts or omissions.

Any person, including an employer, who establishes an automatic external defibrillator program shall not be liable for any civil damages resulting from any act or omission of the persons or employees trained under the program who, in good faith and without remuneration or the expectation of remuneration, attempt to resuscitate a person in immediate danger of loss of life by administering an automatic external defibrillator.

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

(g) This section shall not relieve any person, physician, or employer of:

(1) Any other duty imposed by law regarding the designation and training of persons or employees;

(2) Any other duty imposed by provisions regarding the maintenance of equipment to be used for resuscitation; or

(3) Liability for any damages resulting from gross negligence, or wanton acts or omissions.

(h) For the purposes of this section:

"Automatic external defibrillator program" shall have the meaning provided in section 453-2(b)(5)(B).

"Good faith" includes but is not limited to a reasonable opinion that

the immediacy of the situation is such that the rendering of care should not be postponed.

"Rescue team" means a special group of physicians, basic life support personnel, advanced life support personnel, surgeons, nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to provide such support and resuscitate persons who are in immediate danger of loss of life in cases of emergency. [L 1969, c 80, §1; am L 1974, c 44, §1; am L 1979, c 81, §2; am L 1980, c 232, §35; am L 1983, c 33, §1; gen ch 1985; am L 1998, c 160, §2; am L 2004, c 191, §1]

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Report Title:

Emergency Rescue Workers; Use of Motorcycles

Description:

Allows counties to enact ordinances to permit the use of motorcycles operated by emergency rescue workers to respond to emergency rescue calls, in addition to any other type of vehicle that is otherwise deemed appropriate as a response vehicle by each county.

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

H.B. NO. 470

A BILL FOR AN ACT

relating to counties.

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

SECTION 1. The legislature finds that in emergencies, which often are matters of life-and-death, response time is critical. The average response time to rescue calls in some of the most congested cities is about fifteen minutes -- and longer during rush hours. Rescue workers in the United Kingdom, Italy, Japan, and Malaysia, as well as some smaller cities in the United States, are already authorized to ride motorcycles when responding to rescue emergencies. The Miami-Dade county fire rescue department is believed to be the first major United States metropolitan area to authorize the use of motorcycles when responding to emergency rescue calls.

The purpose of this Act is to allow the use of motorcycles to respond to emergency rescue calls.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new

section to be appropriately designated and to read as follows:

"§46- **Emergency rescue; use of motorcycles permitted.** Any other provision of the law notwithstanding, the council of each county may enact ordinances to permit the use of motorcycles operated by emergency rescue workers to respond to emergency rescue calls, in addition to any other type of vehicle that is otherwise deemed appropriate as a response vehicle by each county."

SECTION 3. New statutory material is underscored.

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

INTRODUCED BY: _____

Report Title:

Emergency Vehicles; DOCARE

Description:

Permits DOCARE vehicles to use blue lights as authorized by the chairperson of the board of land and natural resources. Amended the definition of authorized emergency vehicles.

THE SENATE

TWENTY-THIRD LEGISLATURE, 2006

STATE OF HAWAII

S.B. NO. 2028

A BILL FOR AN ACT

relating to emergency vehicles.

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

SECTION 1. Section 291-31.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device which appears to be the color blue upon any motor vehicle, motorcycle, motor scooter, bicycle, or moped except for:

(1) [~~county~~] County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated; [~~or~~]

(2) [~~department~~] Department of public safety law enforcement vehicles authorized and approved by the director of public safety[~~or~~]; or

(3) Department of land and natural resources, division of conservation and resource enforcement, vehicles authorized and approved by the chairperson of the board of land and natural resources.

This prohibition shall not apply to factory-installed instrument illumination."

SECTION 2. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of "authorized emergency vehicle" to read as follows:

"Authorized emergency vehicle" includes [~~such~~] fire department vehicles, police vehicles, ambulances, and ocean safety vehicles [~~as~~] that are publicly owned, vehicles authorized and approved pursuant to section 291-31.5, and [~~such~~] other publicly or privately owned vehicles [~~as are~~] designated by the city or county council."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

INTRODUCED BY: _____