

JAN 20 2012

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## A BILL FOR AN ACT

RELATING TO CHALLENGE COURSE TECHNOLOGY.

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

1           SECTION 1. The legislature finds that ziplines and canopy  
2 tours are used and enjoyed by a number of Hawaii residents and  
3 attract a large number of tourists to the State, which  
4 contributes significantly to Hawaii's economy. There are,  
5 however, inherent risks in ziplines and canopy tours. These  
6 risks are an inherent part of such activities and as a result,  
7 require that the State be vigilant in its regulation to ensure  
8 the safety and security of those who choose to participate.

9           The purpose of this Act, therefore, is to establish  
10 standards and regulations for zipline and canopy tour operators.

11           SECTION 2. The Hawaii Revised Statutes is amended by  
12 adding a new chapter to be appropriately designated and to read  
13 as follows:

14   **"CHAPTER**

15   **ZIPLINES AND CANOPY TOURS**

16           §    -1 **Definitions.** As used in the chapter:

17           "Canopy tours" means a commercial facility not located in  
18 an amusement park or carnival, which is a supervised or guided



1 educational or recreational activity, including beams, bridges,  
2 cable traverses, climbing walls, nets, platforms, ropes, swings,  
3 towers, ziplines, and other aerial adventure courses, which may  
4 be installed on or in trees, poles, portable structures or  
5 buildings, or be part of self-supporting structures.

6 "Challenge course standards" means the current edition of  
7 Challenge Course Standards: Association for Challenge Course  
8 Technology, or substantially equivalent standards approved by  
9 the department.

10 "Department" means the department of labor and industrial  
11 relations.

12 "Employee" means an officer, agent, employee, servant, or  
13 volunteer, whether compensated or not, full time or not, who is  
14 authorized to act and is acting within the scope of the  
15 employee's employment or duties with an operator.

16 "Operator" means any person, partnership, corporation, or  
17 other entity who has operational responsibility for any zipline  
18 or canopy tour.

19 "Participant" means any person who engages in activities on  
20 a zipline or canopy tour individually or in a group activity  
21 supervised by a zipline or canopy tour operator.



1 "QCCP inspector" means a qualified challenge course  
2 professional inspector who meets challenge course standards and  
3 is certified by the department.

4 "Zipline" means a commercial recreational activity where  
5 participants, by use of a permanent cable or rope line suspended  
6 between support structures, enables a participant attached to a  
7 pulley to traverse from one point to another, for the purpose of  
8 giving the participant amusement, pleasure, thrills, or  
9 excitement.

10 § -2 **Zipline and canopy tour operators.** Every operator  
11 shall:

- 12 (1) Construct, install, maintain, and operate all ziplines  
13 and canopy tours in accordance with challenge course  
14 standards;
- 15 (2) Ensure that ziplines and canopy tours are inspected at  
16 least annually by the department or a QCCP inspector;
- 17 (3) Train employees operating ziplines and canopy tours in  
18 accordance with challenge course standards;
- 19 (4) Procure and maintain commercial general liability  
20 insurance against claims for personal injury, death,  
21 and property damages occurring upon, in, or about the  
22 zipline or canopy tour that affords protection to the



1 limit of not less than \$1,000,000 for the injury or  
2 death of a single person, to the limit of \$2,000,000  
3 in the aggregate, and to the limit of not less than  
4 \$50,000 for property damage; and

5 (5) Maintain the following records:

6 (A) Proof of insurance;

7 (B) Inspection reports;

8 (C) Maintenance records; and

9 (D) Participant acknowledgment of risks and duties.

10 The records shall be retained for a period of at least five  
11 years from the date of creation.

12 **§ -3 Responsibilities of participants; prohibited acts.**

13 (a) Each participant shall have a duty to act as would a  
14 reasonably prudent person when using a zipline or canopy tour  
15 offered by an operator.

16 (b) A participant is prohibited from:

17 (1) Using a zipline or canopy tour without the authority,  
18 supervision, and guidance of an operator or employee  
19 acting within the scope of the employee's employment  
20 or duties with the operator;



- 1           (2) Dropping, throwing, or expelling any object from a
- 2           zipline or canopy tour except as authorized by an
- 3           operator;
- 4           (3) Performing any act that interferes with the running or
- 5           operation of a zipline or canopy tour; and
- 6           (4) Engaging in any harmful conduct, or wilfully or
- 7           negligently engaging in any type of conduct that
- 8           causes or contributes to the injury of any person.

9           **§ -4 Operators; liability.** (a) An operator shall be  
10          liable for any injury, loss, or damage caused by a failure to  
11          follow duties and standards of care pursuant to section -2,  
12          where the violation of duty is causally related to the injury,  
13          loss, or damage suffered.

14          (b) An operator is not liable for any injury, loss, or  
15          damage caused by the negligence of any person who is not an  
16          employee of the operator.

17          **§ -5 Permits; application; annual inspection.** (a) No  
18          operator may knowingly permit the operation of a zipline or  
19          canopy tour without a permit issued by the department.

20          (b) An operator shall apply annually to the department for  
21          a permit on a form and in a manner prescribed by the department.  
22          The permit application shall be submitted:



1 (1) At least fifteen days prior to the first time the  
2 zipline or canopy tour is made available for public  
3 use, if the application is an initial application; and

4 (2) At least fifteen days prior to the expiration of a  
5 permit, if the application is a subsequent  
6 application.

7 (c) Each zipline or canopy tour shall be inspected on at  
8 least an annual basis. The department shall perform an  
9 inspection of the zipline or canopy tour:

10 (1) Within thirty days of the first time the zipline or  
11 canopy tour is made available for public use; and

12 (2) Within thirty days of the expiration of the annual  
13 permit if the operator is applying for a subsequent  
14 permit;

15 provided that the department shall accept and may approve  
16 inspection reports provided by the operator from QCCP inspectors  
17 in lieu of performing its own inspection.

18 (d) The department may conduct additional inspections  
19 during normal operating hours, without prior notice, in a manner  
20 that does not interfere with the safe and efficient operation of  
21 the zipline or canopy tour.



1           **§ -6 Issuance of permit; certificate of inspection;**

2   **availability to public.** (a) If, upon inspection, a zipline or  
3 canopy tour is found to comply with department requirements, the  
4 department shall issue the permit in the form of a certificate  
5 of inspection.

6           (b) Upon issuance, a copy of the current permit, showing  
7 the last date of inspection, shall be affixed to the zipline or  
8 canopy tour, or other location designated by the department.

9           (c) An operator shall retain each permit in the operator's  
10 records for five years in a form that is readily accessible to  
11 the public for inspection at any reasonable time with prior  
12 notice.

13           (d) The department may order, in writing, a temporary  
14 cessation of operation of a zipline or canopy tour if, and to  
15 the extent, it has been determined through the inspection that  
16 the zipline or canopy tour does not comply with challenge course  
17 standards. Operation shall not resume until deficiencies are  
18 corrected to the department's satisfaction.

19           **§ -7 Inspection and permit fees.** (a) The department  
20 shall charge an annual permit fee of \$100 per zipline or canopy  
21 tour.



1           (b) The department shall charge an inspection fee of \$100  
2 for each annual inspection conducted by the department, which  
3 shall be due at the time of application for an annual permit.  
4 The department shall waive the inspection fee for an operator  
5 who provides proof that an inspection has been completed within  
6 the last year by a QCCP inspector.

7           (c) The department shall charge additional inspection fees  
8 of no more than \$100 for additional inspections required as a  
9 result of the condemnation of a device for safety standards  
10 violations and for inspections required as a result of accidents  
11 involving serious or fatal injury.

12           **§ -8 Notice of serious physical injury or fatality;**  
13 **investigations; records.** (a) An operator shall notify the  
14 department of any fatality or accident that results in death or  
15 serious physical injury or illness in any person that occurred  
16 during the person's use or operation of the zipline or canopy  
17 tour.

18           (b) Notification shall be made not later than twenty-four  
19 hours following the incident and may be made by oral, written,  
20 or electronic means; provided that such notification shall not  
21 delay emergency responses to the incident or limit an operator's





1 responsibility to notify emergency or law enforcement personnel  
2 as soon as is practicable.

3 (c) The department shall investigate each safety-related  
4 complaint, accident, or fatality about which the department  
5 receives notice.

6 (d) An operator shall retain a record of each  
7 investigation in the operator's records for five years in a form  
8 that is readily accessible to the public for inspection at any  
9 reasonable time.

10 **§ -9 QCCP inspectors.** (a) The department shall certify  
11 QCCP inspectors for the purpose of inspecting ziplines and  
12 canopy tours.

13 (b) The department may charge an annual certification fee  
14 not to exceed \$50.

15 **§ -10 Permit, inspection, and certification fees.**  
16 Permit, inspection, and certification fees established under  
17 this chapter shall be expended by the director of labor and  
18 industrial relations to carry out the purposes of this chapter  
19 pursuant to rules adopted in accordance with chapter 91.

20 **§ -11 Regulation by counties.** Nothing in this chapter  
21 shall prevent any county from regulating a zipline or canopy  
22 tour; provided that such regulations shall not be related to



1 installation, repair, maintenance, use, operation, or inspection  
2 of a zipline or canopy tour. If any ordinance or rule of any  
3 county conflicts or is inconsistent with this chapter or with  
4 the rules adopted pursuant thereto, the ordinance or rule shall  
5 be void to the extent that it conflicts with this chapter.

6       **§ -12 Indemnification and hold harmless.** The operator  
7 shall indemnify and hold harmless the department, State, and the  
8 State's officers, agents excluding QCCP inspectors, and  
9 employees from and against any and all claims arising out of or  
10 resulting from activities carried out or undertaken pursuant to  
11 this chapter.

12       **§ -13 Rules.** The department shall adopt rules in  
13 accordance with chapter 91 to ensure the safe installation,  
14 repair, maintenance, use, operation, and inspection of ziplines  
15 and canopy tours. Where applicable, such rules shall be  
16 consistent with the challenge course standards."

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.



1 SECTION 4. This Act shall take effect upon its approval;  
 2 provided that an operator operating in the State on the  
 3 effective date of this Act shall obtain a permit within one  
 4 hundred eighty days of the effective date of this Act or such  
 5 greater time as the director of labor and industrial relations  
 6 may require to process the permit required under this Act.

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2012



# S.B. NO. 2433

**Report Title:**

Ziplines; Canopy Tours; Regulations

**Description:**

Establishes standards and regulations for operators of ziplines and canopy tours. Requires operators to obtain annual inspections and permits from the Department of Labor and Industrial Relations.

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

