



AUDREY HIDANO
DIRECTOR

DEPUTY

STATE OF HAWAII

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor

February 7, 2012

To: The Honorable Angus L.K. McKelvey, Chair,
The Honorable Isaac W. Choy, Vice Chair, and
Members of the House Committee on Economic Revitalization and Business

The Honorable Tom Brower, Chair,
The Honorable James Kunane Tokioka, Vice Chair, and
Members of the House Committee on Tourism

Date: Tuesday, February 7, 2012
Time: 11:30 a.m.
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 2060 Relating to Challenge Course Technology

I. OVERVIEW OF PROPOSED LEGISLATION

HB2060 adds a new chapter to the Hawaii Revised Statutes (HRS) to regulate ziplines and canopy tours. Major provisions of the bill include:

- Require operators to construct, install, maintain and operate all zipline and canopy tours according to the standards of the Association for Challenge Course Technology.
- Ensure annual inspections by the department or a Qualified Challenge Course Professional (QCCP) inspector.
- Require operators to procure and maintain commercial general liability insurance.
- Require operators to maintain records including proof of insurance, inspection reports, maintenance records and participant acknowledgement of risks and duties.
- Require DLIR to issue permits and certificates of inspection and charge for annual and safety inspections unless a third party QCCP inspector does the inspection.

- Require the department to certify QCCP inspectors.
- Indemnification of the department, state, the state's officers and employees from any and all claims arising out of or resulting from activities undertaken under the new law.

We oppose this measure as written as it includes recommendations that are too problematic to implement and would entail higher costs. However, the department appreciates the intent to ensure the safety and security for participants—we note the department is still in the process of investigating a zipline accident that killed one employee and seriously hurt another. The department also appreciates the growing contribution of zipline and canopy tours to the state's economy. Therefore, the department suggests further study and offers that a sunrise review by the Office of the Auditor may be the most prudent approach.

II. CURRENT LAW

HIOSH's Boiler and Elevator Inspection Branch regulates amusement rides, which are defined as, "Amusement ride means a mechanically or electrically operated device designed to carry passengers in various modes and used for entertainment and amusement." (HAR, 12-250-2) The department does not regulate zipline or canopy tours.

The department does permit special inspectors and owner-user inspectors, not employed by the department, to undertake boiler and pressure vessel inspections with a valid certificate of competency issued by the department. Special inspectors are required to be employed by an insurance company authorized to insure boiler or pressure vessels in the state. Owner-user inspectors must hold a valid a valid National Board Owner-User Commission, pass an examination prescribed by the director, and be continuously employed by an owner-user inspection agency.

III. COMMENTS ON THE HOUSE BILL

- Elevator inspectors currently also perform the inspections on amusement rides and the department already struggles with maintaining the training and certification standards of elevator inspectors for amusement rides. In order to do a credible job the inspectors and manager would need to develop expertise to both undertake inspections and certify QCCP inspectors, adding an additional burden to the Boiler and Elevator Inspection Branch.
- The inspection, permit and certification fees in the measure are far too low to cover the costs of developing the expertise to regulate ziplines and canopy tours in the manner prescribed in the bill. Most of these operations are located in remote areas of the Neighbor Islands, which would require the department to pay for airfare, car rental, per diem, etc.
- The department questions whether owners and operators of ziplines and canopy tours should be allowed to inspect their own equipment in the manner

that owner-users do for boilers and pressure vessels. The department lacks the expertise to render judgment at this time, but notes that the criteria for owner-users of boilers and pressure vessels are very high standards. Such inspectors hold a national certification, pass examinations prescribed by the department, develop and maintain rigorous self-regulatory regimes approved by the department, and are continuously employed by an inspection agency. Insurance companies authorized to insure boiler and pressure vessels in the state employ special boiler inspectors.

- Considering all the above and the Hawaii Regulatory Reform Act, chapter 26H, HRS, the department suggests the legislature consider asking the Office of the Auditor to conduct a Sunrise Review regarding the matter.

ALOHA,
2/2/2012

This is a citizen wishing to address the approval and construction of zip lines in Hawaii.

There should be a Special Hearing held by the County to allow comments from the neighborhoods that may be impacted by the construction of a zip line.

The zip line should not be allowed to cross over Conservation lands.

The land being impacted by construction of a zip line should have a soils assessment study done to assure suitability of anchoring towers.

The zip line plan I have before me has printed in bold letterings at the bottom:

“Structures exempt from professional engineers certification as per paragraph 464-13
Of the Hawaii Licensing Act”

This should not be permitted. There should be a structural engineers stamp of the plan to be submitted to the County Building Department.

Thank you for the opportunity to submit these suggestions.

Sincerely,

Micah Miller

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 05, 2012 7:51 AM
To: ERBtestimony
Cc: millermicah@msn.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM
Attachments: Comment on zip lines.wps

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Micah Miller
Organization: Individual
E-mail: millermicah@msn.com
Submitted on: 2/5/2012

Comments:

Aloha,

Thank you for the opportunity to express my concerns about the establishment of zip lines.

Mahalo,
Micah Miller



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax

Testimony to the Joint Committee
House Committee on Economic Revitalization & Business
House Committee on Tourism
Tuesday, February 7, 2012 at 11:30am
Conference Room 312

RE: House Bill 2060 RELATING TO CHALLENGE COURSE TECHNOLOGY

Chairs Brower/McKelvey, Vice Chair Choy/Tokioka & Members of the committee;

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 14 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the Executive Director of the Activities & Attractions Association of Hawaii (A3H). A3H represents nearly 200 businesses statewide, 9 of which provide zip line tours. **A3H strongly supports HB2060.**

Zip lines are not a recent invention. These have been used as a transportation method to cross rivers & ravines for hundreds of years. Hawaii's zip line tours are the fastest growing segment of the state's activities & attractions. Hawaii's lines are spectacular; they're long and run over rain forests, gulches and streams while providing phenomenal views. Visitors which experience these tours are making & sharing vacation memories. If you enter "Hawaii Zip line Photos" into Google there are 6.5 Million results.

Currently to obtain insurance a zip line company must be inspected by a qualified specialist. The Association for Challenge Course Technology (ACCT) and the Professional Ropes Course Association (PRCA) are two U.S. trade groups that have established regulations for courses. 100% of operators in our organization are inspected & have insurance; it is a membership requirement. All state activity desks & hotels require proof of being additionally insured prior to booking or even referring an activity to a guest. Other than the obvious exposure, operating without insurance would be difficult, if not impossible.

HB2060 will eliminate the rare possibility of an uninsured operation. It also will, through the DLIR require annual inspections. Zip lines are very safe and easy to use but require proper knowledge and training on the part of the operators and good maintenance. Although death on zip lines is very rare, broken ankles and fingers due to coming into the platform too fast are not unusual.

There has only been one death in Hawaii related to the act of zip lining. This occurred last September on the Big Island. It was a construction worker, on a non working line. It was not a customer on a commercial tour.



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax

Other than controversy in the rural south Hilo community with 1 specific zip line company, there are no issues, only irresponsible rhetoric. During last year's session, HB1426 was introduced due to rumors of uninsured, irresponsible operators & lack of regulations which originated from this south Hilo area. This Bill (HB1426) had broad reaching negative consequences and would have devastated hundreds, by closing down all but one zip line due to classifying them as "amusement rides".

Due to this "bad" legislation, the industry worked together over the summer and fall of 2011 with legislators and the community to provide "good" legislation that supports business and addresses community concerns. The Bill before you, HB2060 is the result of these efforts and is mirrored after laws currently used West Virginia.

Please pass HB2060. Let these businesses get back to business. At the core of their business is a sustainable balanced approach - one which incorporates the protection, preservation, respect and management of Hawaii's most unique asset, our beautiful natural resources.

Thank you again for the opportunity to testify.

Sincerely,

Toni Marie Davis

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 05, 2012 10:02 AM
To: ERBtestimony
Cc: cindykondo@msn.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Cynthia Inoue
Organization: Wainaku-Kaiwiki Community Association
E-mail: cindykondo@msn.com
Submitted on: 2/5/2012

Comments:

I am the President of the Wainaku-Kaiwiki Community Association. Our community is in full support of HR 2060. A similar bill was introduced last year by our district 1 representative, Rep. Mark Nakashima, in response to our request to establish State zipline safety guidelines. Over the past year an increasing number of zipline operators have established businesses on Big Island and elsewhere on the islands. We discovered that there are no federal, state or county guidelines for zipline operations and maintenance. Regrettably that bill was deferred and never discussed again. In the meantime two contractors working on the Honoli'i Outpost zipline, were in a horrific accident in Sept. 2011 leaving one dead and the other seriously injured. This was the exact reason why we pleaded with Rep. Nakashima to introduce the bill last year. Perhaps this accident could have been avoided.

This new measure would establish standards and regulations that in the long run will protect the interests of the owner/operator/contractor, riders and the reputation of the State. The State of Hawaii relies on tourism, and as such, we should be known to provide the best, safest rides in the world.

We strongly urge you to support this important measure. Thank you for your time.

Cynthia Inoue, President, Wainaku-Kaiwiki Community Association

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 05, 2012 7:16 PM
To: ERBtestimony
Cc: Hilobev@yahoo.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Beverly Fuller
Organization: Individual
E-mail: Hilobev@yahoo.com
Submitted on: 2/5/2012

Comments:

I support the passage of this bill so that zip lines and similar tourist activities will be safe for participants and workers. The recent death and injury in Hilo on the zip line causes negative attention to the Islands. Please pass this bill so that these activities will be safe for all to enjoy.
Mahalo for your attention.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 05, 2012 10:47 PM
To: ERBtestimony
Cc: HangOnRider@msn.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Anthony Ferreira
Organization: Individual
E-mail: HangOnRider@msn.com
Submitted on: 2/5/2012

Comments:

My name is Anthony Ferreira. I am a retired Honolulu Fire Fighter and a Kaiwiki resident. HB2060 has my full support.

It is too bad that our local government did not push for regulations regarding zip lines before a worker died on September 21, 2011 at Kapohokine Tour's Paukaa Zip Line location. How is the fact that there are no safety regulations for these zip lines going to affect our tourism? Our island visitors, and especially the local residents, have the right to know and feel that their safety and well being is important to our local government

Testimony Regarding NB2060

Aloha

The fledgling industry of ziplines and associated canopy tours was almost destroyed by one operator who has a history of cutting corners and disrespecting the processes already in place. With these new regulations, I believe we are taking the much needed first step to ensure that ALL operators in our State are protecting their workers and tourists therefore reducing the risk of another catastrophe.

Malama pono

GB Hajim
PO Box 430
Papaikou HI 96781

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 05, 2012 11:01 PM
To: ERBtestimony
Cc: hajim@hawaiiantel.net
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM
Attachments: Testimony Regarding NB2060.doc

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Geoffrey Hajim
Organization: Individual
E-mail: hajim@hawaiiantel.net
Submitted on: 2/5/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:02 AM
To: ERBtestimony
Cc: orgillv@polynesia.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Von Orgill
Organization: Polynesian Cultural Center
E-mail: orgillv@polynesia.com
Submitted on: 2/6/2012

Comments:

We support HB2060.

Zip lines are not a recent invention. These have been used as a transportation method to cross rivers & ravines for hundreds of years. Hawaii's zip line tours are the fastest growing segment of the state's activities & attractions. Hawaii's lines are spectacular; they're long and run over rain forests, gulches and streams while providing phenomenal views. Visitors which experience these tours are making & sharing vacation memories. If you enter "Hawaii Zip line Photos" into Google there are 6.5 Million results. Currently to obtain insurance a zip line company must be inspected by a qualified specialist. The Association for Challenge Course Technology (ACCT) and the Professional Ropes Course Association (PRCA) are two U.S. trade groups that have established regulations for courses. 100% of operators in our organization are inspected & have insurance; it is a membership requirement. All state activity desks & hotels require proof of being additionally insured prior to booking or even referring an activity to a guest. Other than the obvious exposure, operating without insurance would be difficult, if not impossible. HB2060 will eliminate the rare possibility of an uninsured operation. It also will, through the DLIR require annual inspections. Zip lines are safe and easy to use but require proper knowledge and training on the part of the operators and good maintenance.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:36 AM
To: ERBtestimony
Cc: ndavlantes@aol.com
Subject: Testimony for HB2003 on 2/7/2012 8:30:00 AM

Testimony for ERB 2/7/2012 8:30:00 AM HB2003

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nancy Davlantes
Organization: Individual
E-mail: ndavlantes@aol.com
Submitted on: 2/6/2012

Comments:

I am really disappointed and, frankly, appalled that this legislation has again reared its ugly head. The state should not be abetting the withholding of information from consumers, especially on behalf of businesses that operate with state-issued licenses. The public has a right to know about every complaint the state is investigating. This strikes at the very transparency that citizens and voters want and need. Given the distrust and loss of respect many of us have for the political process, why would this obvious attempt at a cover up even be considered?

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:39 AM
To: ERBtestimony
Cc: kalaimokulele@yahoo.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: David Marshall
Organization: Individual
E-mail: kalaimokulele@yahoo.com
Submitted on: 2/6/2012

Comments:
I support HB2060 as written.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:42 AM
To: ERBtestimony
Cc: rob@paradisecoverters.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Rob Payesko
Organization:
E-mail: rob@paradisecoverters.com
Submitted on: 2/6/2012

Comments:
Paradise Helicopters is in favor of this legislation Rob Payesko Director of Business Development Paradise Helicopters

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:51 AM
To: ERBtestimony
Cc: sarah@paradisecoasters.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Sarah Restle
Organization: Paradise Helicopters
E-mail: sarah@paradisecoasters.com
Submitted on: 2/6/2012

Comments:

As a member of the A3H organization and a tour provider, I support this bill as to ensure safety and regulation for activities to be enjoyed by our many visitors and locals alike.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 10:41 AM
To: ERBtestimony
Cc: bossfrogmike@yahoo.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Michael Webb
Organization: Frogman Charters Inc.
E-mail: bossfrogmike@yahoo.com
Submitted on: 2/6/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 11:24 AM
To: ERBtestimony
Cc: connie@blueseacruisesinc.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Connie McGee
Organization: Individual
E-mail: connie@blueseacruisesinc.com
Submitted on: 2/6/2012

Comments:

Currently to obtain insurance a zip line company must be inspected by a qualified specialist. The Association for Challenge Course Technology (ACCT) and the Professional Ropes Course Association (PRCA) are two U.S. trade groups that have established regulations for courses. 100% of operators in our organization are inspected & have insurance; it is a membership requirement. All state activity desks & hotels require proof of being additionally insured prior to booking or even referring an activity to a guest. Other than the obvious exposure, operating without insurance would be difficult, if not impossible. HB2060 will eliminate the rare possibility of an uninsured operation. It also will, through the DLIR require annual inspections. Zip lines are very safe and easy to use but require proper knowledge and training on the part of the operators and good maintenance. Although death on zip lines is very rare, broken ankles and fingers due to coming into the platform too fast are not unusual.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 11:28 AM
To: ERBtestimony
Cc: sunlightonwater@gmail.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: M Yee
Organization:
E-mail: sunlightonwater@gmail.com
Submitted on: 2/6/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 2:08 PM
To: ERBtestimony
Cc: karin@princevilleranch.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Karin Guest
Organization: Individual
E-mail: karin@princevilleranch.com
Submitted on: 2/6/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 3:00 PM
To: ERBtestimony
Cc: kathyh@kathyhancock.com
Subject: Testimony for HB2060 on 2/7/2012 11:30:00 AM

Testimony for ERB/TOU 2/7/2012 11:30:00 AM HB2060

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Kathleen Hancock
Organization: Individual
E-mail: kathyh@kathyhancock.com
Submitted on: 2/6/2012

Comments:

I support this bill, because our visitors and residents have an expectation that a tour proposing to send them over 200 foot river gulches will have met an industry standard, and currently they are not required to do so.

Insurance, inspection, reasonable maintenance, building standards, most would expect that the activity could not have opened its doors without such regulation.

This bill should be a no-brainer. The amazing part is that at least six zipline tours have opened on this island without any regulation or permitting other than a basic building permit.

So sad that it takes a gruesome death to bring home the need for regulation. Please note, however, that Rep. Nakashima was on top of this before the death at Honoli'i Mountain Outpost. Good for him, and for the concerned citizens of Rural South Hilo who lobbied for this legislation even before tragedy struck. Unfortunately, an accident occurred before this measure could come before the legislature. Please provide for our state against future incidents, and let's take care of our visitors who don't understand what is regulated and what is not.