



LATE TESTIMONY

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Aloha my name is Nicole Baier and I am an owner operator of a challenge course and canopy tour on Kaua'i. My company is called Just Live and we have been operating for over 8 1/2 years. Mahalo for hearing my testimony today as I cautiously support of House Bill 2060. Although I strongly believe this industry can be very well self regulated; and I note that most, if not all Hawaii zipline operators are already performing the duties listed in this Bill..... I am not opposed to state regulation as long as the state performs their due diligence in intensely educating themselves about the challenge course and zipline industry before doing so. I do have some concerns, compliments & suggestions regarding this Bill.

Although I am in support of this Bill I do have some concerns, compliments & suggestions.

Page 3, line 1 under QCCP Inspector definition....I strongly agree that QCCP inspectors should be qualified challenge course professional inspectors who meet challenge course standards. I suggest that any inspector hired or contracted by the 'department' also be held to those same standards and the bill reflects that same high standard in it's text.

Page 5, line 17 under Permits; Applications; annual inspection....talks about no operator will operate without a permit issued by the department. I suggest that the Bill/Law include resources, funding and clearly documented process, operators must follow in order to ensure NO break or delay in service/operations. A break in operations would lead to local employee's losing work time and decrease in revenue which can lead to decrease in tax money back into the state.

Page 6, line 18 under Permits, application; annual inspection. line 18 (d)....."the dept may conduct add'l inspections during normal operating hours....." ... As an operator that has been operating challenge course programs and canopy tours for over 8 years we would welcome a site visit or add'l inspection by the department but not without notice as an impromptu visit from the 'department' anytime during normal operating hours would definitely interfere with the safe and efficient operation of the zipline or canopy tour. I would like to see line 19 on page 6 read "during normal operating hours, WITH prior notice, in a manner....."

In conclusion, if the state of Hawaii does move forward with regulating the challenge course and zipline industry I am in support of a Department such as the Dept of Labor and Industrial Relations or even the Dept. of Commerce and Consumer Affairs being the overseeing department as this is a commerce and labor service industry. A department, say for example, such as the Dept of Land and Natural Resources would NOT be an appropriate governing body for the challenge course, zipline and canopy tour industry. That would be an extreme and unnecessary over reach of their purpose and scope of service. And I for one do not want my industry overseen and inspected by state land 'police'.

I am in support of operators and inspectors held accountable and responsible for safe operation for challenge course and zipline tours. Would like to express caution to not create more bureaucracy in a department that already suffering from lack of resources, funding, and qualification which could lead to negligence of department follow through. Currently if tour companies want "selling" power they are required in have liability insurance which requires inspections and Assoc. Challenge Course Technology.

Thank you for your time and thoughtful consideration of my testimony.

 27.12.



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Aloha my name is Julianne Lester and I am an owner operator of a challenge course and canopy tour on Kaua'i. My company is called Just Live and we have been operating for over 8 1/2 years. Mahalo for hearing my testimony today as I cautiously support of House Bill 2060. Although I strongly believe this industry can be very well self regulated; and I note that most, if not all Hawaii zipline operators are already performing the duties listed in this Bill..... I am not opposed to state regulation as long as the state performs their due diligence in intensely educating themselves about the challenge course and zipline industry before doing so. I do have some concerns, compliments & suggestions regarding this Bill.

Looking at page 3, line 1 under 'Definitions'? QCCP Inspector.....it is absolutely critical that the Qualified Challenge Course Professional Inspector (QCCP) is a non-biased person with vast experience in, and knowledge of, the standards set forth by the leading association within this industry; the ACCT. I suggest including the term 'non-biased' in the definition of QCCP Inspector and define what 'non-biased' means (such as no aunts, uncles, etc... of the zipline owner/operator and it may help to include the course builder should not be the final inspector as that is a conflict of interest). I also suggest that the Bill include that any department hired or contracted inspectors be QCCP Inspectors and I can not find that clearly stated anywhere in the current Bill.

Page 4, line 12 under Responsibilities of Participants; Prohibited Acts...states that "Each participant shall have a duty to act as would a reasonably prudent person when using a zipline"...and goes on to list what participants are prohibited from doing while on a zipline or canopy tour. I am in support of keeping this in the Bill but suggest a short sentence requiring operators to include these prohibited activities on the release of liability waiver that guests are required to sign before participation. If this will be written into law, operators should list this so guests/participants are aware of the law. This will help raise an awareness with the public that Hawaii does have regulations for these types of activities and will help protect operators in the event of litigation if injury was caused by the participant engaging in one or more of the prohibited acts listed in this Bill/Law. They just read and signed a waiver stating they read, understand and agree.

Page 6, line 18 under Permits, application; annual inspection. line 18 (d)....."the dept may conduct add'l inspections during normal operating hours....."..... As an operator that has been operating challenge course programs and canopy tours for over 8 years we would welcome a site visit or add'l inspection by the department but not without notice as an impromptu visit from the 'department' anytime during normal operating hours would definitely interfere with the safe and efficient operation of the zipline or canopy tour. I would like to see line 19 on page 6 read "during normal operating hours, WITH prior notice, in a manner....."

Page 7, line 19 under Inspection and permit fees..... "The department shall charge an annual permit fee of \$100 per zipline or canopy tour." Then on page 8, line 1 (b)....."The department shall charge an inspection fee of \$100 for EACH annual inspection conducted by the department,.....So \$100 for the annual permit fee (pd to DLIR) and an add'l \$100 for the annual inspection cost (pd to DLIR = a total of \$200). Does the annual inspection cost include a detailed inspection report completed by the DLIR and given to operator shortly after inspection? I suggest it does. I will say That is a GREAT deal. So

I raise the concern regarding 'how thorough of an inspection can I as an operator expect for \$100?' There are many references throughout the Bill that indicate that ziplines and canopy tours may be inspected at least annually by the 'Department' (DLIR), or by a QCCP inspector. I appreciate the option of being able to use the DLIR inspector OR a QCCP inspector. My concern is who within the DLIR will be qualified to provide these very critical and thorough inspections and what training and process will they go through to ensure that their inspections will be 'qualified and professional'? I suggest that ALL inspectors are considering QCCP Inspectors and not just privately hired ones.

Page 10, line 6 under Indemnification to hold harmless....."The operator shall indemnify and hold harmless the dept, state, and the state's officers, AGENTS EXCLUDING QCCP INSPECTORS, and employees from and against any and all claims.... ??Are the agents excluding QCCP inspectors referred to employed and/or contracted by the Department OR are they private inspectors hired by the operator? All persons deemed a QCCP Inspector should carry the same amount of liability whether they are hired by an operator or employed and/or contracted by the department. One should not be more or less liable than the other.

In conclusion, if the state of Hawaii does move forward with regulating the challenge course and zipline industry I am in support of a Department such as the Dept of Labor and Industrial Relations or even the Dept of Commerce and Consumer Affairs being the overseeing department as this is a commerce and labor service industry. A department, say for example, such as the Dept of Land and Natural Resources would NOT be an appropriate governing body for the challenge course, zipline and canopy tour industry. That would be an extreme and unnecessary over reach of their purpose and scope of service. And I for one do not want my industry overseen and inspected by state land 'police'.

Again.. Although I strongly believe this industry can be very well self regulated; and I note that most, if not all Hawaii zipline operators are already performing the duties listed in this Bill..... I am not opposed to state regulation as long as the state performs their due diligence in intensely educating themselves about the challenge course and zipline industry before doing so. I strongly suggest and recommend that the state of Hawaii further its efforts with this legislation in collaboration with the Hawaii Zipline Organization. I

Thank you for your time and thoughtful consideration of my testimony.

Julie Lester 2/7/12

With regard to HB2060, I am in full support for this bill. It is quite unfortunate that death must occur for attention to be given this topic. How many would you like before such a bill is passed?

Hawaii has a vital industry in Tourism and the Public trusts that our State Representatives have their safety and well being first and foremost. This bill is vital to the safety of our visitors, and residents alike.

No one questions the safety regulations of an elevator because they rest assured that our State requires proper, routine inspections. In this new and growing zipline industry, there is absolutely NOTHING in place to give those same, simple assurances. Our visitors and residents TRUST that the State of Hawaii is looking after their well being and safety at a minimum. They have NO idea that, in fact, they are left hanging (no pun intended) with no safety net whatsoever.

What is the hesitation here? The passing of a simple, straightforward measure would, at the very least, demonstrate some concern. Even amusement rides have regular maintenance and safety regulations!

If we are going to allow human beings to fly through the air on ziplines, surely a basic assurance of governmental regulation of these particular amusement rides is deserved.

Please, we urge you to pass HB2060 and get on with the business of protecting unaware innocents!

Mahalo,

Gwen Herrington
Hilo Resident