



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

Testimony to the House Committee on Economic Revitalization & Business
Tuesday, February 14, 2011, 8:30 am
Conference Room 312

RE: House Bill 2402 RELATING TO RECREATIONAL ACTIVITIES

Chair McKelvey, Vice Chair Choy & 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. These businesses range in size from very large (over 300 employees) to very small (1-2 employees). **A3H strongly SUPPORTS HB2402.**

This Bill amends HRS§ 663-1.54, which was adopted in 1997 and has not been amended since that time. Shortly after its adoption, the statute was the subject of a Comment in the University of Hawaii Law Review. See, Ammie I. Roseman-Orr, Recreational Activity Liability in Hawai'i: Are Waivers Worth the Paper on Which They Are Written?, 21 U.Hi.L.R. 715 (1999). That article pointed out an unintended consequence of the statute: that our courts are prevented from disposing of non-meritorious claims by summary judgment because the jury must decide whether a risk was inherent to the recreational activity.

The Law's requirement that a jury determine this issue is inconsistent with the traditional rules applied to personal injury claims. The existence and scope of duties owed by an operator or owner to users are determined by a court as a matter of law.

This role reversal is devastating under our present economic condition. The courts, like other state services, have been required to reduce hours of operation. Allowing cases to continue on a court's docket until a jury can make a determination delays other cases from reaching final resolution. The courts should be given the ability to dispose of non-meritorious cases involving waivers for engaging in recreational activities just as they have that ability in other personal injury cases.

Sincerely,

Toni Marie Davis



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Tuesday, February 14, 2011, 8:30 am
Conference Room 312

RE: House Bill 2402 RELATING TO RECREATIONAL ACTIVITIES

Chair McKelvey, Vice Chair Choy & Members of the committee;

Mahalo for this opportunity to testify, my name is Ronnie Grover. For the last 19 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the general manager of a passenger tour company. I represent the thirty five employees of our company and we strongly SUPPORT HB2402.

This Bill amends HRS§ 663-1.54, which was adopted in 1997 and has not been amended since that time. Shortly after its adoption, the statute was the subject of a Comment in the University of Hawaii Law Review. See, Ammie I. Roseman-Orr, Recreational Activity Liability in Hawai'i: Are Waivers Worth the Paper on Which They Are Written?, 21 U.Hi.L.R. 715 (1999). That article pointed out an unintended consequence of the statute: that our courts are prevented from disposing of non-meritorious claims by summary judgment because the jury must decide whether a risk was inherent to the recreational activity.

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Sincerely,

Ronnie Grover
PO Box 51004
Eleele, HI 96705

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 2:34 PM
To: ERBtestimony
Cc: orgillv@polynesia.com
Subject: Testimony for HB2402 on 2/14/2012 8:30:00 AM

Testimony for ERB 2/14/2012 8:30:00 AM HB2402

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: 2/13/2012

Comments:

This Bill amends HRS#167; 663-1.54, which was adopted in 1997 and has not been amended since that time. Shortly after its adoption, the statute was the subject of a Comment in the University of Hawaii Law Review. See, Ammie I. Roseman-Orr, Recreational Activity Liability in Hawai`i: Are Waivers Worth the Paper on Which They Are Written?, 21 U.Hi.L.R. 715 (1999). That article pointed out an unintended consequence of the statute: that our courts are prevented from disposing of non-meritorious claims by summary judgment because the jury must decide whether a risk was inherent to the recreational activity.

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Please support this legislation. Thank you!

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 2:38 PM
To: ERBtestimony
Cc: mary.covey@sunshinehelicopters.com
Subject: Testimony for HB2402 on 2/14/2012 8:30:00 AM

Testimony for ERB 2/14/2012 8:30:00 AM HB2402

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Mary Covey
Organization: Sunshine Helicopters
E-mail: mary.covey@sunshinehelicopters.com
Submitted on: 2/13/2012

Comments:

This Bill amends HRS 663-1.54, which was adopted in 1997 and has not been amended since that time. Shortly after its adoption, the statute was the subject of a Comment in the University of Hawaii Law Review. See, Ammie I. Roseman-Orr, Recreational Activity Liability in Hawaii: Are Waivers Worth the Paper on Which They Are Written?, 21 U.Hi.L.R. 715 (1999). That article pointed out an unintended consequence of the statute: that our courts are prevented from disposing of non-meritorious claims by summary judgment because the jury must decide whether a risk was inherent to the recreational activity.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 2:41 PM
To: ERBtestimony
Cc: takuya@wetnwildhawaii.com
Subject: Testimony for HB2402 on 2/14/2012 8:30:00 AM

Testimony for ERB 2/14/2012 8:30:00 AM HB2402

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Takuya Ohki
Organization: Individual
E-mail: takuya@wetnwildhawaii.com
Submitted on: 2/13/2012

Comments:

