



NEIL ABERCROMBIE
GOVERNOR

DWIGHT Y. TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

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 Carol Fukunaga, Chair,
The Honorable Glenn Wakai, Vice Chair, and
Members of the Senate Committee on Economic Development and Technology

The Honorable Rosalyn H. Baker, Chair,
The Honorable Brian T. Taniguchi, Vice Chair, and
Members of the Senate Committee on Commerce and Consumer Protection

The Honorable Clayton Hee, Chair,
The Honorable Maile S.L. Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Tuesday, February 7, 2012
Time: 9:15 a.m.
Place: Conference Room 229, State Capitol

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

Re: S.B. No. 2433 Relating to Challenge Course Technology

I. OVERVIEW OF PROPOSED LEGISLATION

SB2060 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 SENATE 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 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.



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 9:15am
Conference Room 229

RE: Senate Bill 2433 RELATING TO CHALLENGE COURSE TECHNOLOGY

Chairs Baker/Fukanaga/Hee, Vice Chair Shimabukuro/Tanaguchi/Wakai & Members of these joint committees;

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 SB2433.**

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.

SB2433 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.



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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.

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, HB1246 was introduced due to rumors of uninsured, irresponsible operators & lack of regulations which originated from this south Hilo area. This Bill (HB1246) had broad reaching negative consequences and would have devastated hundreds, by closing down all but one zip line due it 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, SB2433 is the result of these efforts and is mirrored after laws currently used West Virginia.

Please pass SB2433. 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

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 11:26 AM
To: EDTTestimony
Cc: connie@blueseacruisesinc.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
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:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 5:22 PM
To: EDTTestimony
Cc: erik@zipline.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Erik McLellan
Organization: Skyline Eco-Adventures
E-mail: erik@zipline.com
Submitted on: 2/6/2012

Comments:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 2:21 PM
To: EDTTestimony
Cc: jguest@hawaii.rr.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Jeff Guest
Organization: Individual
E-mail: jguest@hawaii.rr.com
Submitted on: 2/6/2012

Comments:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 2:09 PM
To: EDTTestimony
Cc: karin@princevilleranch.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
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:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 11:28 AM
To: EDTTestimony
Cc: sunlightonwater@gmail.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: M Yee
Organization:
E-mail: sunlightonwater@gmail.com
Submitted on: 2/6/2012

Comments:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 4:47 PM
To: EDTTestimony
Cc: mike@princevilleranch.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Michael Frisk
Organization: Princeville Ranch Adventures
E-mail: mike@princevilleranch.com
Submitted on: 2/6/2012

Comments:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 10:42 AM
To: EDTTestimony
Cc: bossfrogmike@yahoo.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
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:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:44 AM
To: EDTTestimony
Cc: rob@paradisecoverters.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
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 supports this measure Rob Payesko Director of Business Development
Paradise Helicopters

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 10:42 AM
To: EDTTestimony
Cc: sarah@paradisecoverters.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Sarah Restle
Organization: Paradise Helicopters
E-mail: sarah@paradisecoverters.com
Submitted on: 2/6/2012

Comments:

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 06, 2012 9:06 AM
To: EDTTestimony
Cc: orgillv@polynesia.com
Subject: Testimony for SB2433 on 2/7/2012 9:15:00 AM

Testimony for EDT/CPN/JDL 2/7/2012 9:15:00 AM SB2433

Conference room: 229
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 SB2433.

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. SB2433 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.