

JAN 24 2013

A BILL FOR AN ACT

RELATING TO LIMITED LIABILITY FOR MOUNTAIN CLIMBING, ROCK CLIMBING, RAPPELLING, AND BOULDERING ON GOVERNMENT LAND.

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

1 SECTION 1. Chapter 520, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§520- Limited liability for mountain climbing, rock
5 climbing, rappelling, and bouldering. No public entity or
6 public employee shall be liable to any person for injury or
7 damage sustained on government land when engaged in mountain
8 climbing, rock climbing, rappelling, and bouldering."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

S.B. NO. 1167

Report Title:

Limited Liability; Government Land; Mountain Climbing, Rock Climbing, Rappelling, and Bouldering

Description:

Clarifies that no public entity or public employee shall be liable to any person for injury or damage sustained on government land when engaged in mountain climbing, rock climbing, rappelling, and bouldering.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO LIMITED LIABILITY FOR MOUNTAIN CLIMBING, ROCK CLIMBING, RAPPELLING, AND BOULDERING ON GOVERNMENT LAND.

PURPOSE: To clarify that no public entity or public employee shall be liable to any person for injury or damage sustained on government land when engaged mountain climbing, rock climbing, rappelling, and bouldering.

MEANS: Add a new section to chapter 520, Hawaii Revised Statutes (HRS).

JUSTIFICATION: There has been an increasing trend in public recreation throughout the United States and Hawaii to pursue the activity of mountain climbing, rock climbing, rappelling, bouldering, and related activity that requires special skills, equipment, and specific geologic features with unique qualities. In addition, the advent of indoor climbing gyms and mobile climbing walls, where the recreationalists can practice on engineered walls in a secure environment with ancillary safety equipment, has led to an increased desire to then test skills in an exterior, unmanaged environment subject to variation and additional exposure to environmental hazards. Due to the Internet, the proliferation of information on this activity and the method by which the public gains information on climbing opportunities located in remote unmanaged areas to practice these skills, is rapidly increasing.

While Hawaii lacks the unique geology on a wide scale basis to support this recreational activity, there are isolated outcroppings of specific features throughout the State that are alluring for rock

climbing. This activity may occur on both public and private land. As the Department has jurisdiction of approximately two million acres of land and staff has no training on the activity nor are knowledgeable of all possible statewide locations and current ancillary use, regulating or managing this activity is untenable. However, as it has been occurring virtually for decades in various locations and with a growing degree of participation, rather than attempt to regulate or prohibit and subsequently enforce against the activity, absent any expertise on the subject, providing government with liability relief associated with its use is a prudent measure.

While chapter 520, HRS, was originally promulgated to provide liability relief to private landowners who allow recreational activity to occur on private land, several states have subsequently included public land in their respective recreational use statutes. This shift to include public land is due to the proliferation of outdoor recreational activity on unimproved government lands throughout the United States. Hawaii has also experienced this rapid increase in the public desire to engage in outdoor recreation activity in unmanaged areas, particularly as opportunities on private lands have been restricted. While the State has a duty to manage areas where the public is invited to recreate, the Department has determined that by providing for liability protection via the provision of chapter 520, HRS, that are specifically directed to this unique unmanaged activity, there should be no unwarranted concerns that this protection will enable government to reduce its management function in authorized areas for public recreation.

This bill seeks to limit the liability of government agencies that have geologic

features that the public finds suitable for recreational activity.

Impact on the public: This bill will allow for the public to continue engaging in a recreational pursuit without the need for government intervention or prohibition.

Impact on the department and other agencies: This bill will reduce the tax payer dollars spent on defending actions against the State for injuries occurring on state land resulting from participation in the inherently risky sports of mountain climbing, rock climbing, rappelling, and bouldering.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: Upon approval.