

STAND. COM. REP. NO.

266

Honolulu, Hawaii

FEB 14 2013

RE: S.B. No. 1168
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Water and Land and Judiciary and Labor, to which was referred S.B. No. 1168 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to clarify under the State Tort Liability Act 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.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources, State Attorney General, Access Fund, and Change.org. Your Committees received testimony in opposition to this measure from Hawaii Association for Justice and numerous individuals.

Your Committees find that there has been an increasing trend in public recreation throughout the United States and Hawaii to pursue the activities of bouldering, rock climbing, rappelling, and related activities that require special skills and equipment and specific geologic features with unique qualities. The Department of Land and Natural Resources has jurisdiction of approximately two million acres of land and does not have the staff to monitor all potential locations of rock climbing, which could literally be anywhere in any park. The mountain and rock



climbing areas are often in remote areas, sometimes only accessible through private property. It would not be possible, feasible, or desirable for the State to erect fences, post signs, or limit access to all of the potential remote and unmanaged areas that members of the public may use to engage in climbing activities.

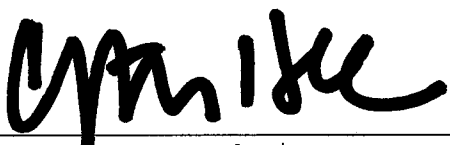
Because of the dangers inherent in climbing activities, injuries and accidents are inevitable, and the State will continually be open to lawsuits. Without this measure, the best option following an accident or injury is often to permanently close off the area and prevent any access by the public because there is no other way for the State to eliminate risk of injury. This is a disservice to the public. The preferred action is not to close off sites, prohibit access, and impose fines when the public access a prohibited area; however, there may not be much choice if the State can be sued for every injury that occurs as a result of these climbing activities.

Your Committees have amended this measure by:

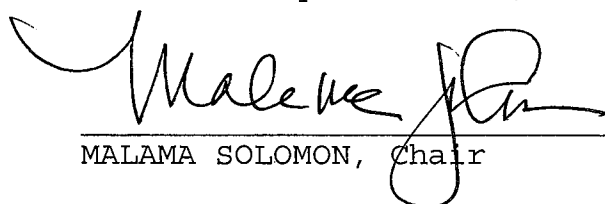
- (1) Defining rock climbing using the definition of the United States National Park Service and defining bouldering; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1168, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1168, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Judiciary and Labor,



CLAYTON HEE, Chair



MALAMA SOLOMON, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 1168	Committee Referral: WTL/JDL, WAM	Date: 2/5/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SOLOMON, Malama (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
DELA CRUZ, Donovan M.				✓
IHARA, Jr., Les	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

