

Honolulu, Hawaii

FEB 15 2013

RE: S.B. No. 1285  
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 Public Safety, Intergovernmental and Military Affairs and Economic Development, Government Operations and Housing, to which was referred S.B. No. 1285 entitled:

"A BILL FOR AN ACT RELATING TO TORT LIABILITY,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Grant immunity to state and county agencies and employees from liability for injury or damage to persons or property arising out of hazardous recreational activities; and
- (2) Specify the recreational activities giving rise to injury or damages from which private landowners are granted limited liability under current law.

Your Committees received testimony in support of this measure from the Department of the Attorney General; Department of Land and Natural Resources; City and County of Honolulu, Department of the Corporation Counsel; City and County Of Honolulu, Department of Parks and Recreation; Access Fund, and numerous individuals. Your Committees received testimony in opposition to this measure from Hawaii Association for Justice.

Your Committees find that due to Hawaii's thriving tourist industry and its abundant opportunities for recreation, hazardous recreational activities impose a significant liability concern to



the counties and State. This measure limits the State's unfettered liability for injuries and accidents that it cannot control or prevent and relies on those engaging in these activities to exercise personal responsibility and to assume the risk of what they know to be an inherently dangerous activity. Your Committees further find that this measure does not absolve the State or counties of any and all liability regardless of any actions by the State or the counties or its employees. The State and counties will remain liable for injury or damages caused by their own negligent, reckless, or grossly negligent acts.

Your Committees heard testimony from the Access Fund, a national advocacy organization that keeps rock climbing areas open and conserves the climbing environment. According to the Access Fund, the insurance for rock climbing sites like Mokuleia could cost between \$2,000 to \$5,000. The Access Fund suggested that the State could provide this insurance by entering into a management agreement with the Access Fund who would provide a grant to the State; by procuring an insurance policy itself to cover only specific rock climbing areas; or by instituting an annual fee for individuals who wish to pursue hazardous recreational activities that will cover the State's insurance expenses.

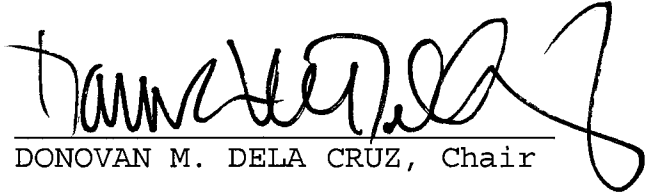
Your Committees have amended this measure by:

- (1) Inserting an effective date of July 1, 2020, to encourage further discussion; 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 Public Safety, Intergovernmental and Military Affairs and Economic Development, Government Operations and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1285, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1285, S.D. 1, and be referred to the Committees on Judiciary and Labor and Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committees on Public Safety,  
Intergovernmental and Military  
Affairs and Economic  
Development, Government  
Operations and Housing,

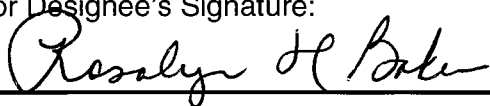
  
DONOVAN M. DELA CRUZ, Chair

  
WILL ESPERO, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Public Safety, Intergovernmental and Military Affairs**  
**PSM**

Bill / Resolution No.:* <b>SB 1285</b>	Committee Referral: <b>PSM/EGH, WAM</b>	Date: <b>2-14-13</b>		
<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 <small>2312</small> <input checked="" type="checkbox"/> Pass, with amendments <small>2311</small> <input type="checkbox"/> Hold <small>2310</small> <input type="checkbox"/> Recommit <small>2313</small>				
Members	Aye	Aye (WR)	Nay	Excused
ESPERO, Will (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, Josh				✓
SLOM, Sam	✓			
<b>TOTAL</b>	<b>4</b>	<b>—</b>	<b>—</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original      Yellow      Pink      Goldenrod File with Committee Report      Clerk's Office      Drafting Agency      Committee File Copy				

\*Only one measure per Record of Votes

The Senate  
Twenty-Seventh Legislature  
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**Record of Votes**  
**Committee on Economic Development, Government Operations and Housing**  
**EGH**

Bill / Resolution No.:* <i>SB 1285</i>	Committee Referral: <i>PSM/EGH, WAM</i>	Date: <i>2/14/13</i>		
<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
DELA CRUZ, Donovan M. (C)	X			
SLOM, Sam (VC)	X			
BAKER, Rosalyn H.	X			
CHUN OAKLAND, Suzanne	X			
ENGLISH, J. Kalani				X
THIELEN, Laura H.	X			
WAKAI, Glenn				X
<b>TOTAL</b>	<i>5</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

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