

**lowen1-Kyli**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 10, 2013 5:56 PM  
**To:** waltestimony  
**Cc:** dean.dallas@gmail.com  
**Subject:** Submitted testimony for SB1168 on Mar 11, 2013 09:30AM

**SB1168**

Submitted on: 3/10/2013

Testimony for WAL on Mar 11, 2013 09:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dallas Dean	Individual	Support	No

Comments: It is not the role of the government to prevent its citizens from willfully engaging in activities that are dangerous only to those involved.

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To: Members of the House Water and Land Committee

Re: Senate Bill 1168 decision making by WAL on Monday, March 11<sup>th</sup> in room 325 at 9:30 AM

From: Sue Donaldson

### **Testimony in SUPPORT of Senate Bill 1168**

I am writing to **support** SB 1168 which pertains to limited liability for the activities of mountain climbing, rock climbing, rappelling, and bouldering. These activities deserve to have limited liability in line with Hawaii's skateboarding, watersport, and ocean activity statutes for a number of critical reasons including: the legal climate in Hawaii, the inherent risk of rock climbing activities, the total inability of the State to oversee them, and the ongoing DLNR practice of closing public lands out of fear of litigation.

First, landowner liability laws in Hawaii are drastically in need of clarification to keep pace with the types of outdoor recreation that are rapidly burgeoning throughout the islands. Gaps in the Hawaii Revised Statutes continue to allow tax dollars to hemorrhage out of the general fund due to lawsuits. The legal climate that has been engendered by consumer lawyers has allowed these lawsuits to persist and to succeed. Many of these judgments against the State seem utterly ludicrous and can only be seen as results of the prodigious cleverness of the lawyers who continue to pilfer the State's coffers. The legislature must take action to protect the rights of recreationists to utilize public lands as they choose, rather than protecting the ability of trial lawyers to sue the State every time someone is injured or killed.

Additionally, Hawaii offers a bountiful array of recreational activities, and we as a society must accept that reasonable people who pursue these activities (such as mountain climbing, rock climbing, rappelling, and bouldering) accept all natural and inherent risks that come along with them. Whenever someone participates in these climbing activities, there are immediate and obvious risks which are essential qualities of these activities that cannot be entirely removed or mitigated; there should be no legal grounds for holding the State liable for damages resulting from such risks. Banning participation in these activities (as the DLNR has done at a number of areas) cannot be the solution; rock climbing is a "welcomed and historic use" of public lands according to the National Park Service, and we must seek to protect it as such.

The nature of mountain climbing, rock climbing, rappelling, and bouldering are such that the practitioners of these activities will always be seeking out new areas to explore and enjoy. This completely precludes any attempts by DLNR to regulate or oversee these activities; the climbers will always be two steps ahead, often establishing self-maintained trails and climbing areas well off the beaten path. Potential proposed solutions of posting signage or setting up permitting programs are completely untenable unless we wish to see thousands of new signs throughout the islands, and establish paperwork for every new climbing site that is established. DLNR doesn't have the resources or staff to enact such programs, and the public doesn't want government oversight of rock climbing areas. By maintaining the stance that climbing is allowed but not regulated, the State will not need to pursue such wasteful measures.

This brings us to the final critical point regarding rock climbing liability: the DLNR's actions. Since a rockfall injury occurred in June of 2012 at a climbing wall in Mokuleia, the DLNR has closed down the two largest, most well-developed climbing areas on the island of Oahu; their actions

prompted the DHHL to close down a third extremely popular climbing site as well. In more than twenty years of organized rock climbing in Hawaii there has never been a lawsuit filed against the State as a result of rock climbing activities; these area closures are purely the result of paranoid speculation. As long as the threat of unrighteous lawsuits exists, the DLNR will not allow rock climbing at these areas. This intractable position has led to eight months of efforts by local climbers to try to regain access to these public lands, including: appealing to neighborhood boards, repeated offers the by national nonprofit organization the Access Fund to insure the State against climbing injuries, and requests from local climbers to assume stewardship and land management of the climbing areas; all these efforts have been endlessly stymied by DLNR officials.

Action by the legislature is required to solve this patently absurd situation wherein a “welcomed and historic use” of public lands has been banned, and a whole community has been disenfranchised due to the threat of lawsuits arising from participation in an inherently dangerous activity. We the people need the legislature to remove the threat of lawsuits from the Hawaiian legal climate so that DLNR can rescind its draconian stance toward a safe, healthy, and fulfilling activity and way of life and allow Hawaii's climbers to regain and maintain access to the public lands they treasure. Please pass Senate Bill 1168 to resolve this situation. Thank you for allowing me to present this testimony.

Sincerely,

Sue Donaldson  
Honolulu, HI 96815

To: Members of the House Water and Land Committee

Re: Senate Bill 1168

From: Christine Miyasaki

Testimony in SUPPORT of Senate Bill 1168

I am writing to support SB 1168 which pertains to limited liability for the activities of mountain climbing, rock climbing, rappelling, and bouldering. These activities deserve to have limited liability in line with Hawaii's skateboarding, watersport, and ocean activity statutes for a number of critical reasons. This bill will help protect the right of the people for access to public lands and help protect the State from excessive litigation.

Thank you for your time and consideration.

## lowen1-Kyli

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 3:00 AM  
**To:** waltestimony  
**Cc:** doodcheese@gmail.com  
**Subject:** Submitted testimony for SB1168 on Mar 11, 2013 09:30AM

### **SB1168**

Submitted on: 3/11/2013

Testimony for WAL on Mar 11, 2013 09:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Don Springford	Individual	Support	No

Comments: Thank you for allowing people to voice their support for Bill SB1168. I have been a rock climber for over 12 years and am a home owner and business owner in Canada. I routinely vacation in the USA as I find the quality of rock climbing in California and Utah in particular to be superb. My wife mentioned she would like to vacation in Hawaii, and upon research I was very surprised to learn that outdoor climbing was banned. I basically started looking for a new holiday spot immediately. I also felt extremely bad for the climbers and boulderers of Hawaii. When I heard about SB1168 I was relieved, as this bill will allow me to vacation in a beautiful destination while enjoying my very favorite recreational activity. I always carry personal health and SAR insurance when I travel as I assume the risk is mine. Again, when I was researching climbing in Hawaii, I was very surprised to note that it isn't! The first thought through my head was "that must be a lawyer's dream" as endless litigation and the waste of taxpayer funds in defense of the outdated state assumption of liability would cost far more than Search and Rescue picking people out of the mountains on their own dime for years. In my view, a private citizen should be responsible for his own person; carry adequate insurance, follow recommended safety procedures, and responsible in the event of an accident. In no way should the state be on the hook to pay for costs which might rise from a private citizen conducting recreational activities on public lands. Thanks for allowing me to speak my mind on this issue.

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