

MAR 13 2013

SENATE RESOLUTION

URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, IN CONSULTATION WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, TO EXPLORE FEASIBLE OPTIONS RELATING TO LIABILITY FOR INJURY OR DAMAGE SUSTAINED WHILE MOUNTAIN CLIMBING, ROCK CLIMBING, RAPPELLING, AND BOULDERING ON PUBLIC LAND.

1 WHEREAS, there is an increasing trend in public recreation
2 throughout the United States and Hawaii to pursue the activities
3 of bouldering, rock climbing, mountain climbing, rappelling, and
4 related activities that require special skills and equipment and
5 specific geologic features with unique qualities; and

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7 WHEREAS, the Department of Land and Natural Resources has
8 jurisdiction of approximately two million acres of land and does
9 not have the staff to monitor all potential locations of
10 climbing, which could literally be anywhere in any park; and

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12 WHEREAS, these climbing areas are often in remote areas,
13 sometimes only accessible through private property; and

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15 WHEREAS, it would not be possible, feasible, or desirable
16 for the State to erect fences, post signs, or limit access to
17 all of the potential remote and unmanaged areas that members of
18 the public may use to engage in climbing activities; and

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20 WHEREAS, because of the dangers inherent in climbing
21 activities, injuries and accidents are inevitable, and the State
22 will continually be open to lawsuits; and

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24 WHEREAS, the best option following an accident or injury is
25 often to permanently close off the area and prevent any access
26 by the public because there is no other way for the State to
27 eliminate risk of injury; and

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29 WHEREAS, last June, the Department of Land and Natural
30 Resources closed a hillside in Mokuleia after a twelve-year-old
31 girl suffered critical injuries when a falling rock hit her head
32 while she stood under another climber fifty feet above her; and
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1 WHEREAS, the preferred action is not to close off sites,
2 prohibit access, or impose fines when the public access a
3 prohibited area; however, there may not be much choice if the
4 State can be sued for every injury that occurs as a result of
5 these climbing activities; now, therefore,
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7 BE IT RESOLVED by the Senate of the Twenty-seventh
8 Legislature of the State of Hawaii, Regular Session of 2013,
9 that the Department of Land and Natural Resources, in
10 consultation with the Department of the Attorney General, is
11 urged to:
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- 13 (1) Evaluate the feasibility of establishing that no
14 public entity or public employee shall be liable to
15 any person for injury or damage sustained on
16 government land when engaged in mountain climbing,
17 rock climbing, rappelling, and bouldering;
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- 19 (2) Identify and evaluate laws of other state
20 jurisdictions that have similar limited liability
21 statutes;
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- 23 (3) Identify and determine the areas within the
24 jurisdiction of the Department of Land and Natural
25 Resources that are safe or unsafe for mountain
26 climbing, rock climbing, rappelling, and bouldering;
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- 28 (4) Explore and identify options that will ensure safety
29 without closing sites within the jurisdiction of the
30 Department of Land and Natural Resources for mountain
31 climbing, rock climbing, rappelling, and bouldering;
32 and
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- 34 (5) Consult with various stakeholders related to mountain
35 climbing, rock climbing, rappelling, and bouldering;
36 and
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38 BE IT FURTHER RESOLVED that the Department of Land and
39 Natural Resources is requested to submit a report of its
40 findings and recommendations, including any proposed
41 legislation, to the Legislature no later than twenty days prior
42 to the convening of the Regular Session of 2014; and
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1 BE IT FURTHER RESOLVED that certified copies of this
2 Resolution be transmitted to the Chairperson of the Board of
3 Land and Natural Resources and Attorney General.
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OFFERED BY: _____

A handwritten signature in black ink, appearing to read "M. J. Hill", is written over a horizontal line.