Based on 2009 insurance claims data from the company that insures 90 percent of Hawai'i's operators, ziplines had an injury/participant ratio of .00006. This ratio is lower than that of archery (.0006).

Sunrise Analysis: Regulation of Ziplines and Canopy Tours

Report No. 12-08, October 2012

Licensing ziplines and canopy tours adds little consumer protection

Call for regulation does not meet criteria

Ziplines have been used for more than 100 years to transport people and goods by use of a cable, a pulley, and gravity. More recently, the recreational industry has featured ziplines and "canopy tours" (guided transit of a forest canopy by means of ziplines) as a part of "challenge courses," adventure activities often located high up on support structures or trees. The first zipline course in Hawai'i opened in 2002. Today, there are 22 ziplines and canopy tours throughout the state.

In House Concurrent Resolution No. 118, House Draft 1, Senate Draft 1, the 2012 Legislature asked the Auditor to analyze Senate Bill No. 2433, Senate Draft 2 (S.B. No. 2433, S.D. 2) relating to challenge course technology and include an assessment of alternative forms of regulation. In our analysis of S.B. No. 2433, S.D. 2, we applied the Hawai'i Regulatory Licensing Reform Act, Chapter 26H, Hawai'i Revised Statutes, which limits regulation of professions and vocations, not businesses such as zipline and canopy tour operators. The Legislature's policy and criteria for assessing the merits of regulation require that those desiring the measure must provide the evidence supporting the case for engaging the State's policing powers to regulate.

The proposed bill would require annual inspections performed by state elevator inspectors or private inspectors certified by the Department of Labor and Industrial Relations (DLIR). Despite risks inherent in thrill rides, there was insufficient data of serious harm to the public to warrant regulation. Evidence of abusive practices was anecdotal and mostly alleged by industry members against so-called "wildcatters," facilities that are not constructed and operated per industry safety standards and do not have sufficient insurance coverage. However, we found that all 22 businesses are required by their insurance agencies to provide annual inspection reports by insurer-accredited companies designated under industry standards as qualified challenge course professionals. As a result, the industry is basically self-regulating. In addition, the DLIR estimates that it would need $400,000 initially and $350,000 each year to create and maintain a self-sufficient inspection and permitting program. To fund such an operation, the department would have to charge each of the 22 operators an initial licensing fee of $18,000, as well as an annual fee of $15,000. The bill proposes an initial and annual fee of $100.

Potential host agencies are a poor fit

The DLIR was selected as a potential host agency because of its existing role in administering amusement rides as part of its elevator and boiler safety program. However, the department has a multi-year inspection backlog of 5,000 elevators and is not inspecting attractions that fall under its jurisdiction for amusement rides. Clearly, it is not capable of handling its current duties let alone another inspection program, especially without significant additional resources.

Moreover, the other proposed host agency, the Department of Commerce and Consumer Affairs (DCCA), lacks the capability and authority to inspect accident sites, assessing cause and operator culpability in the event of significant accidents or fatalities. If S.B. No. 2433, S.D. 2, were enacted, it may create a false sense of safety for the public and raise the potential for liability to the State.

Agencies' responses

The DLIR concurred with our analysis of S.B. No. 2433, S.D. 2. The DCCA opted not to comment on a draft of the sunrise report provided to it.