

JAN 19 2024

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# A BILL FOR AN ACT

RELATING TO SEARCH AND RESCUE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii is an outdoor  
2 playground world-renowned for its beautiful hikes through lush  
3 green forests and mountains. However, the coronavirus disease  
4 2019 pandemic fueled a sustained surge of experienced and  
5 inexperienced hikers venturing outdoors. Occasionally, hikers  
6 ignore posted warning signs, intentionally leave a hiking trail,  
7 or enter property that is closed to the public. When one of  
8 these hikers needs to be rescued, it is government entities that  
9 bear the costs associated with the search or rescue.

10           The legislature further finds that in response to having to  
11 pay the cost of rescuing recreational hikers who take  
12 unnecessary risks, several states, including Idaho, Maine, New  
13 Hampshire, Oregon, South Dakota, and Vermont, have passed  
14 legislation that allows the state to offset the costs associated  
15 with the search or rescue by seeking reimbursement from the  
16 rescued party.

17           Accordingly, the purpose of this Act is to:



1 (1) Establish the hike safe program and search and rescue  
2 special fund to be administered by the department of  
3 land and natural resources;

4 (2) Require government entities to seek reimbursement for  
5 all or a portion of search and rescue expenses for  
6 persons who knowingly enter certain property or trails  
7 or violate applicable laws, exempting persons who  
8 possess a hike safe card under certain conditions; and

9 (3) Raises the penalty for criminal trespass from a petty  
10 misdemeanor to a misdemeanor.

11 SECTION 2. Chapter 137, Hawaii Revised Statutes, is  
12 amended by adding two new sections to be appropriately  
13 designated and to read as follows:

14 "§137-A Hike safe card program. (a) The department of  
15 land and natural resources shall establish a hike safe card  
16 program and shall make a hike safe card available for purchase  
17 to the public. The department of land and natural resources  
18 shall adopt rules pursuant to chapter 91 to carry out the  
19 purposes of this section.

20 (b) The annual fee for a hike safe card shall be not less  
21 than \$25 for an individual and not less than \$35 for a family



1 and shall be valid for one year from the date of purchase. All  
2 proceeds from the sale of hike safe cards shall be deposited  
3 into the search and rescue special fund established pursuant to  
4 section 137-B.

5 For the purposes of this subsection, "family" includes the  
6 purchaser and the purchaser's spouse and minor children,  
7 including legally adopted children or stepchildren.

8 **§137-B Search and rescue special fund.** (a) There is  
9 established in the state treasury the search and rescue special  
10 fund to be administered by the department of land and natural  
11 resources.

12 (b) The following shall be deposited into the search and  
13 rescue special fund:

14 (1) Appropriations from the legislature; and

15 (2) Proceeds from the sale of hike safe cards pursuant to  
16 section 137-A.

17 (c) The search and rescue special fund shall be used for  
18 the following purposes:

19 (1) Defraying the search and rescue expenses of a  
20 government entity; and



1        (2) Paying administrative costs related to the hike safe  
2        card program pursuant to section 137-A."

3        SECTION 3. Section 137-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5        "[~~f~~]**§137-2**[~~f~~] **Reimbursement.** (a) Whenever any government  
6 entity engages in a search or rescue operation for the purpose  
7 of searching for or rescuing a person, and incurs search and  
8 rescue expenses therein, the government entity may seek  
9 reimbursement from the following:

10        (1) The person on whose behalf search or rescue operations  
11 were conducted, including the person's estate,  
12 guardians, custodians, or other entity responsible for  
13 the person's safety;

14        (2) A person who ultimately benefited from a search or  
15 rescue operation by being rescued; or

16        (3) Any entity responsible for placing the person in the  
17 position of danger for which the search or rescue  
18 operation was initiated[~~-~~],

19        [~~(b)~~ ~~Reimbursement under subsection (a) shall be allowed~~  
20 ~~only~~] if the need for search or rescue was caused by any act or  
21 omission by the person searched for or rescued, constituting



1 intentional disregard for the person's safety, including, but  
2 not limited to, intentionally disregarding a warning or notice.

3 (b) A government entity shall seek reimbursement for all  
4 or a portion, but not less than half, of search or rescue  
5 expenses from all applicable persons or entities pursuant to  
6 subsection (a), if the need for the search or rescue was the  
7 result of the person or entity:

8 (1) Knowingly entering state, county, or private property  
9 that is closed to the public by competent authority  
10 for any reason;

11 (2) Knowingly entering a hiking trail that is closed to  
12 the public; or

13 (3) Violating applicable laws; provided that the closure  
14 is posted by sign, barricade, or other device that  
15 gives reasonable notice of the closure.

16 (c) Reimbursement pursuant to this section shall not apply  
17 to a person, or their family as defined in section 137-A, who  
18 purchased a hike safe card pursuant to section 137-A, unless the  
19 search and rescue response was caused by an act or omission by  
20 the person or their family that any reasonable person would  
21 consider to be reckless.



1        (d) Each county shall adopt ordinances necessary to  
2 implement this section, and the department of labor and  
3 industrial relations state fire council shall adopt necessary  
4 rules pursuant to chapter 91, to implement this section and  
5 establish any administrative systems that may be necessary to  
6 pursue reimbursements required by this section."

7        SECTION 4. Section 708-814.5, Hawaii Revised Statutes, is  
8 amended by amending subsection (3) to read as follows:

9        "(3) Criminal trespass onto public parks and recreational  
10 grounds is a [~~petty~~] misdemeanor."

11        SECTION 5. In accordance with section 9 of article VII of  
12 the Hawaii State Constitution and sections 37-91 and 37-93,  
13 Hawaii Revised Statutes, the legislature has determined that the  
14 appropriations contained in Act 164, Regular Session of 2023,  
15 and this Act will cause the state general fund expenditure  
16 ceiling for fiscal year 2024-2025 to be exceeded by \$  
17 or        per cent. This current declaration takes into account  
18 general fund appropriations authorized for fiscal year 2024-2025  
19 in Act 164, Regular Session of 2023, and this Act only. The  
20 reasons for exceeding the general fund expenditure ceiling are  
21 that:



1 (1) The appropriation made in this Act is necessary to  
2 serve the public interest; and

3 (2) The appropriation made in this Act meets the needs  
4 addressed by this Act.

5 SECTION 6. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ or so  
7 much thereof as may be necessary for fiscal year 2024-2025 for  
8 to be deposited into the search and rescue special fund.

9 SECTION 7. There is appropriated out of the search and  
10 rescue special fund the sum of \$ or so much thereof as  
11 may be necessary for fiscal year 2024-2025 for the purposes of  
12 this Act.


13 The sum appropriated shall be expended by the department of  
14 land and natural resources for the purposes of this Act.

15 SECTION 8. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 9. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 10. This Act shall take effect on July 1, 2024.

2 INTRODUCED BY: 





# S.B. NO. 2190

**Report Title:**

DLNR; Hiking Trails; Search and Rescue; Hike Safe Card; Search and Rescue Special Fund; Mandatory Reimbursement; Counties; Administrative Rules; Trespassing; Misdemeanor; Expenditure Ceiling; Appropriation

**Description:**

Establishes the hike safe card program and search and rescue special fund to be administered by the Department of Land and Natural Resources. Requires government entities to seek reimbursement for all or a portion of search or rescue expenses when the person or entity knowingly enters state, county, or private property, knowingly enters a hiking trail that is closed to the public, or violates applicable laws, provided that the closure is posted by sign, barricade, or other device that gives reasonable notice of the closure. Exempts persons who possess a hike safe card from search and rescue cost reimbursement, under certain conditions. Requires counties and the State Fire Council to adopt ordinances or rules as necessary to pursue reimbursements. Raises the penalty for criminal trespass from a petty misdemeanor to a misdemeanor. Declares that the general fund expenditure is exceeded. Makes an appropriation.

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