

ACT 236

H.B. NO. 3238

A Bill for an Act Relating to a Statewide Trail and Access System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 69, Session Laws of Hawaii 1974, mandated the establishment of a statewide trail and access system, to be called “Na Ala Hele”. In 1978, the department of land and natural resources issued a study, entitled Proposals for Planning, Coordination and Development of Hawaii’s Statewide Trail & Access System. Implementation of the system, however, has not progressed.

The purpose of this Act is to provide for the implementation of Na Ala Hele.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
THE HAWAII STATEWIDE TRAIL AND ACCESS  
SYSTEM**

§ -1 **Definitions.** For the purpose of this chapter:

“Access” means an easement or way:

- (1) Over which the general public has the right to travel; and
- (2) Which is used by the general public or intended for use by the general public primarily to reach or depart a public beach, shore, park, trail, or other public recreational area.

It includes a lateral easement along the shoreline, coastline, or beach.

“Department” means the department of land and natural resources.

“Trail” means an identifiable linear course used primarily for or used to get a recreational, educational, or inspirational experience. It includes, but is not limited to:

- (1) A corridor trail, which is a designated route, segregated from a highway, providing a continuous linkage between or among major urban areas, fragmented accesses, and major trail areas;
- (2) A segment or connector trail, which is a designated route from one locale to another; and
- (3) A special use trail, which is a designated course for a special activity or function.

§ -2 **Establishment of Hawaii statewide trail and access system.** There is established the Hawaii statewide trail and access system, to be known as Na Ala Hele. The Hawaii statewide trail and access system shall consist of all trails and

accesses in the State. The department of land and natural resources shall plan, develop, acquire land or rights for public use of land, construct, and engage in coordination activities to implement the system, in accordance with this chapter.

§ **-3 Inventory.** (a) The department shall establish, maintain, and amend, as required, an inventory of all trails and accesses in the State, whether wholly or partly on public or private lands and whether or not under the jurisdiction of the department. The inventory shall include:

- (1) Maps and lists of all trails and accesses;
- (2) Name and length of each trail or access;
- (3) The person or agency having management responsibility for each trail or access;
- (4) The predominant transportation mode for each trail or access;
- (5) The development standard, condition, and grade of each trail and access;
- (6) The description of amenities or other features on or in close proximity to each trail or access;
- (7) The status of availability to the general public of each trail or access; and
- (8) Other information for each trail or access deemed necessary or desirable by the department.

(b) The department shall publish and update periodically the inventory in a document, which shall be available to the general public. The department may charge an appropriate fee for the document and any updates.

§ **-4 Classification.** The department shall classify each trail and access in the inventory according to the following:

- (1) Function;
- (2) Type;
- (3) Theme;
- (4) Actual and desired use intensity; and
- (5) Any other classification deemed necessary or desirable by the department.

§ **-5 Identification of proposed, potential, and needed trails and accesses.** (a) In addition to the inventory under section -3, the department shall identify and maintain a listing of:

- (1) Proposed trails and accesses which may be opened to the public;
  - (2) Potential expansions of trails and accesses;
  - (3) Potential or desirable connectors between existing trail systems; and
  - (4) Public beach, shore, park, trail, and other recreational areas to which access is unavailable or inadequate.
- (b) The listing may be published in the inventory required under section

-3.

§ **-6 Regulation of use of trails and accesses.** The department, by rule adopted in accordance with chapter 91, may regulate the use of trails and accesses under the department's jurisdiction. Regulation of the use of trails and accesses shall be established for the following purposes:

- (1) To preserve the integrity, condition, naturalness, or beauty of the trails or accesses; or
- (2) To protect the public safety.

§ **-7 Examination of legal issues.** The department, in consultation with the attorney general, shall examine legal issues relating to trails and accesses. The legal issues examined shall include:

- (1) Theories, options, and doctrines by which trails and accesses may be placed into or retained in public use;
- (2) The validity and feasibility of dedication requirements to obtain public use of trails and accesses;
- (3) The extent of liability exposure of the State, counties, and private landowners when allowing trails and accesses under their respective jurisdictions to be used by the general public; and
- (4) Strategies to reduce or limit the liability exposure of the State, counties, and private landowners in order to promote public use of trails and accesses under their respective jurisdictions which are closed to the general public.

**§ -8 Request to acquire rights for public use of additional trails and accesses.** The department may request the legislature for appropriations to acquire rights to trails and accesses which are closed to public use or which are necessary to effectuate the statewide trail and access system.

**§ -9 Other powers and duties of department.** The department:

- (1) May establish signing and design standards for classifications of trails and accesses;
- (2) Shall establish advisory councils to solicit advice and assistance in implementation of the statewide trail and access system. Appointment of members to advisory councils shall be made by the department. If established, members of the advisory councils shall serve part-time and shall not be compensated for official duties performed. Advisory councils may be established on regional, islandwide, countywide, or statewide bases;
- (3) Shall serve as the centralized information agency for matters relating to the statewide trail and access system;
- (4) Shall coordinate its activities under this chapter, including its compilation of the inventory and classifications of trails and accesses, with other public agencies;
- (5) Shall advise and, when able, assist other public agencies in the development, construction, operation, maintenance, and regulation of trails and accesses under their jurisdiction;
- (6) Shall advocate before the legislature, governor, and public agencies the implementation of the statewide trail and access system; and
- (7) Shall submit an annual report to the governor and legislature on activities engaged in under this chapter.

**§ -10 Limitation on chapter's provisions.** (a) Nothing in this chapter shall be construed as conferring or imposing upon the department any rights, powers, and duties over:

- (1) Lands not under its jurisdiction; or
  - (2) The activities of other public agencies;
- except if provided by other law or agreement.

(b) The designation as part of the statewide trail and access system of trails and accesses, the use to which the public has no rights, shall not be construed as establishing public rights to use those trails and accesses.

**§ -11 Rules.** The department may adopt rules in accordance with chapter 91 for the purposes of this chapter."

SECTION 3. Act 69, Session Laws of Hawaii 1974, is repealed.

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**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$664,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of land and natural resources.

**SECTION 5.** This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)