

Honolulu, Hawaii

APR - 5 2006

RE: H.B. No. 2772
H.D. 1
S.D. 2

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred H.B. No. 2772, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL PROPERTY DAMAGE TO AGRICULTURAL AND AQUACULTURAL PROPERTY,"

begs leave to report as follows:

The purpose of this measure is to establish intentionally or knowingly damaging the agricultural or aquacultural equipment, supplies, or products of another as a crime of criminal property damage.

Your Committee received testimony in support of this measure from the Department of Agriculture, the Department of the Prosecuting Attorney for the City and County of Honolulu (Prosecuting Attorney), Alexander and Baldwin, Inc., the Hawaii Farm Bureau Federation, the Maui County Farm Bureau, the Hawaii Agriculture Research Center, Hawaii Crop Improvement Association, the Pineapple Growers Association of Hawaii, Maui Land & Pineapple Company, Inc., Meadow Gold Dairies, and C & H Farms. The Office of the Public Defender submitted testimony in opposition to this measure.

Your Committee finds that increasing the penalties for criminal property damage offenses is consistent with the great impact these crimes have on Hawaii's agricultural and aquacultural industries and the ability of individual farmers and ranchers to earn a living.



Your Committee notes that there was a concern raised by the Office of the Public Defender about subjecting a person to criminal penalties in situations where a person removes a portion of a tree that is trespassing onto their property. In response to this concern, the Prosecuting Attorney explained that this measure is intended to apply only to commercial agriculture and aquaculture and not to situations involving the "trespassing tree" that is grown or maintained for other than commercial purposes. The Prosecuting Attorney noted that the criminal penalty only applies where damage is done to the agricultural equipment, supplies, or products, or aquacultural equipment, supplies, or products. The definition of these specifically reference products raised, grown, or maintained by a commercial agricultural enterprise, aquacultural enterprise, or research agency while owned by the enterprise or agency.

Your Committee has amended this measure in accordance with testimony submitted by the Prosecuting Attorney to provide that in calculating the amount of damage, the value of future crops is included.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2772, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2772, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Hawaiian Affairs,

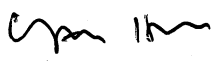


COLLEEN HANABUSA, Chair



**The Senate
Twenty-Third Legislature
State of Hawaii**

**Record of Votes of the
Committee on Judiciary and Hawaiian Affairs
(Bills and Resolutions)**

Measure:*	Committee Referral:	Date:
HB 2772 HD1, SD1	WLA, JHW	3-30-06
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is to:		
<input type="checkbox"/> Pass, unamended (2312)	<input checked="" type="checkbox"/> Pass, with amendments (2311)	<input type="checkbox"/> Hold (2310)
<input type="checkbox"/> Recommit (2313)		
Members	Ayes	Ayes(WR)
Nays	Excused	
HANABUSA, Colleen (C)	/	
HEE, Clayton (VC)	/	
CHUN OAKLAND, Suzanne	/	
ENGLISH, J. Kalani	/	
IHARA, Jr., Les	/	
WHALEN, Paul	/	
TOTAL	6	0
0	0	0
Recommendation:		
<input checked="" type="checkbox"/> Adopted	<input type="checkbox"/> Not Adopted	
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
		Goldenrod Committee File Copy

*Do not list more than one measure per Record of Votes.