

Honolulu, Hawaii  
A-14 , 2008

RE: S.B. No. 2400  
S.D. 1  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2400, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DECRIMINALIZATION OF MINOR OFFENSES PURSUANT TO ACT 124, SESSION LAWS OF HAWAII 2005,"

begs leave to report as follows:

The purpose of this bill is to make resolution of minor criminal offenses, including traffic violations, as simple as possible for the average citizen and to ensure that police, prosecutor, and judicial resources are focused on the most serious criminal offenses.

Specifically, this bill would decriminalize a number of minor offenses that involve conduct for which, typically, only a fine is imposed and make the penalties more consistent with those now imposed for traffic infractions that have previously been decriminalized. The offenses proposed for decriminalization were identified pursuant to a process established by the Legislature in Act 124, Session Laws of Hawaii (SLH) 2005.

The Judiciary and the Department of Land and Natural Resources supported this bill. The Department of Agriculture (DOA) and City and County of Honolulu Department of the Prosecuting Attorney opposed this measure. The Attorney General and Legislative Reference Bureau (LRB) provided comments.



The DOA testified that it initially supported the measure in the course of the process by which minor offenses are identified for decriminalization pursuant to Act 124, SLH 2005. However, DOA later determined that decriminalization would adversely impact its staff resources and sought additional time to undertake a comprehensive review of its enforcement and adjudicative structure.

Your Committee recognizes that decriminalization has procedural impacts that may not have been contemplated by Act 124, SLH 2005. Specifically, while decriminalization may pave the way for reduction of court appearances by citizens, law enforcement officers, and prosecutors, it raises the question of whether a case alleging the violation of a decriminalized statute or rule will be initiated by issuance of a citation, service of a complaint, or other type of procedure. Decriminalization also raises the issue of whether the case will be adjudicated administratively by the executive department with jurisdiction or judicially, with the involvement of prosecutors or other state or county legal representatives.

Accordingly, your Committee has amended this bill by:

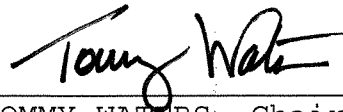
- (1) Deleting provisions that amended penalties for violations, because it is unclear how violations of the statutes or rules in question would be initiated, if decriminalized, and how the cases would be adjudicated;
- (2) Changing the effective date of the provisions related to agriculture and animals to July 1, 2009, to allow DOA time to conduct a comprehensive review of its enforcement and adjudicative structure; and
- (3) Amending Act 124, SLH 2005, to modify the procedure by which minor offenses are recommended for decriminalization to require the Judiciary, LRB, executive branch agencies, police, and prosecutors to address the procedural implications of decriminalizing minor offenses.

Other technical, nonsubstantive amendments were made for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2400, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2400, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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TOMMY WATERS, Chair



