

STAND. COM. REP. NO.

2865

Honolulu, Hawaii

FEB 29 2008

RE: S.B. No. 3075
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 3075 entitled:

"A BILL FOR AN ACT RELATING TO EPIDEMIOLOGIC INVESTIGATIONS,"

begs leave to report as follows:

The purpose of this measure is to protect public health and
safety by allowing the Department of Health to conduct
epidemiological investigations in a timely manner in order to
contain and prevent outbreaks of dangerous diseases.

Specifically, this measure amends section 321-29, Hawaii
Revised Statutes, to allow the Department of Health to collect
samples necessary for epidemiologic investigations.

Your Committee received testimony in support of this measure
from the Department of Health. The American Civil Liberties Union
submitted testimony in opposition to this measure.

Your Committee finds that epidemiological investigations have
been impeded by the refusal of individuals who do not allow
Department of Health investigators access to property, or
permission to obtain samples necessary for analysis. Your
Committee further finds that the timely collection of plant,
animal, food, or environmental samples is necessary for the
Department to conduct effective investigations and protect the
public from outbreaks of dangerous diseases. However, your
Committee is concerned with the competing governmental and
individual interests and finds it necessary to ensure that

2008-1695 SSCR SMA.doc



individuals will not be subject to unreasonable searches in violation of their privacy rights.

Accordingly, your Committee has amended this measure by clarifying that:

- (1) Reasonable cause must exist for the investigation of a disease that may threaten the public health;
- (2) The investigation is an "administrative investigation", independent of a criminal investigation;
- (3) The Department of Health must obtain consent from the owner, owner's agent, or person in lawful control of the property or an administrative investigation warrant to investigate the property;
- (4) There is an exception to the consent and warrant requirements when exigent circumstances that present imminent danger to public health and safety or the environment exist;
- (5) The investigation shall be limited to only those actions that are necessary to confirm or deny the cause which prompted the investigation;
- (6) When samples are taken as a result of the investigation, the department shall make split samples available to the person whose property is being investigated; and
- (7) A copy of the administrative investigation warrant and all supporting affidavits shall be provided to the person served or left at the entry of the investigated premises.

Your Committee further amended this measure by changing the effective date to encourage further discussions and by making technical, nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3075, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3075, S.D. 1.



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


BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 3075	Committee Referral: HTH, JDL	Date: 2-29-08
---	--	-------------------------

The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	✓			
HEE, Clayton (VC)				✓
GABBARD, Mike	✓			
KOKUBUN, Russell S.				✓
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	4	-	-	2

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


Distribution: Original Yellow Pink Goldenrod
 File with Committee Report Clerk's Office Drafting Agency Committee File Copy

*Only one measure per Record of Votes