

Honolulu, Hawaii

FEB 11 2010

RE: S.B. No. 2522  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 2522 entitled:

"A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY,"

begs leave to report as follows:

The purpose of this measure is to provide that landowners have no duty of care to trespassers, establish a rebuttable presumption of no liability of a landowner if the land is posted with signs, and permit the trespasser to overcome the presumption of no liability of a landowner by establishing by a preponderance of the evidence that the owner was grossly negligent or intentionally injured the trespasser.

Testimony in support of the measure was submitted by one state agency, nine organizations, and fifteen individuals. One state agency and two organizations submitted comments. Testimony in opposition was submitted by one organization and one individual. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that large landowners, such as farmers and ranchers, are subject to costly general liability insurance to protect trespassers from natural hazards that are inherent characteristics of agricultural land. Trespassers damage fences and steal agricultural products with no consequences due to the remote locations, easy access, and limited surveillance. Trespassers in hunting parties are armed and pose an immediate threat to landowners. This measure will also protect the State,



where trespassers continue to use non-public trails despite repeated warnings not to do so from state officers.

Your Committee has amended this measure by:

- (1) Removing the requirement that a landowner must post signs to establish a rebuttable presumption of no liability; and
- (2) Changing the effective date to July 1, 2050 for the purposes of further discussion.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2522, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

Respectfully submitted on  
behalf of the members of the  
Committee on Water, Land,  
Agriculture, and Hawaiian  
Affairs,




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CLAYTON HEE, Chair



The Senate  
 Twenty-Fifth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Water, Land, Agriculture and Hawaiian Affairs**  
**WTL**

Bill / Resolution No.:* <b>SB 2522</b>	Committee Referral: <b>WTL, JGO</b>	Date: <b>2/8/10</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <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	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)				✓
BUNDA, Robert	✓			
FUKUNAGA, Carol				✓
KOKUBUN, Russell S.				✓
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>3</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes