

STAND. COM. REP. NO.

1254

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 227  
H.D. 2  
S.D. 2

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 227, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRESPASS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Make entering or remaining unlawfully on unimproved or unused agricultural lands without permission an offense of criminal trespass in the second degree if the lands are fenced, enclosed, or secured, or if a sign is displayed to give notice;
- (2) Delete the provision that a person who enters or remains on unimproved and apparently unused land that is not fenced or otherwise enclosed in a manner designed to exclude intruders, unless notice against trespass has been given, is allowed to be on the land and is not trespassing;
- (3) Specify that a person has unlawfully entered or remains on agricultural land if that person is on the land without permission and the land is fenced, has posted notice that the land is private, is fallow, or has the visible presence of livestock or a crop;



- (4) Limit the liability of agricultural landowners for any injury, death, loss, or damage suffered by a trespasser, with certain exceptions; and
- (5) Add definitions for "agricultural land", "fallow", "invited guest", "owner", "trespasser", and "unimproved or unused lands".

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources and Kamehameha Schools.

Your Committee finds that trespassing causes damage to property and crops and increases the liability of land owners. Trespassers may also misuse lands as illegal dump sites and places to conduct illicit activities. Your Committee also finds that the current trespass laws exclude persons trespassing on unimproved and apparently unused lands from being cited for criminal trespass unless notice of trespass is personally communicated to that person. Your Committee recognizes that, in many cases, trespassers are armed and located many miles from the nearest town or police station and that in these situations giving personal notice is impractical and even dangerous. This measure aims to expand the definition of criminal trespass and to minimize the obstacles involved in citing a trespasser, thereby discouraging the misuse of lands and increasing the overall safety of residents of the State.

Your Committee has amended this measure by:

- (1) Including evidence of livestock-raising, such as cattle, horses, water troughs, shelters, or paddocks, as a characteristic of agricultural lands onto which entry constitutes entering or remaining unlawfully on agricultural lands;
- (2) Amending the definitions of "agricultural land", "fallow", "owner", and "trespasser";
- (3) Deleting the definition of "invited guest";
- (4) Changing the effective date to July 1, 2011; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



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 H.B. No. 227, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 227, H.D. 2, S.D. 2.

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



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CLAYTON HEE, Chair



