

STAND. COM. REP. NO.

197

Honolulu, Hawaii

Feb 10, 2011

RE: H.B. No. 548
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Tourism, to which was referred H.B. No. 548
entitled:

"A BILL FOR AN ACT RELATING TO TRESPASS,"

begs leave to report as follows:

The purpose of this bill is to hold responsible the authors
or publishers of visitor guide websites or publications that
encourage, invite, or attract persons, who in reliance thereon,
commit the offense of criminal trespass when entering or remaining
on remote private property to experience an attraction or activity
thereon by:

- (1) Making the author or publisher civilly liable for injury
or death resulting therefrom; and
- (2) Exempting the owner or occupier of the private land from
liability for any injury or death of any trespasser.

The bill also expands the offense of criminal trespass in the
second degree to include a person who enters or remains, without
permission, on unimproved or used private lands that are secured
in a manner to exclude intruders or have "Private Property" or "No
Trespassing" signs.

HB548 HD1 HSCR TOU HMS 2011-1949



The Hawaii Tourism Authority; Hawaii Farm Bureau Federation; Maui County Farm Bureau; Hawaii Cattlemen's Council, Inc.; Maui Cattlemen's Association; Maui Hotel & Lodging Association; Poipu Beach Resort Association; Grove Farm Company, Inc.; and numerous individuals testified in support of this measure. The Hawaii Association for Justice opposed this measure. Kauai Visitors Bureau, Fathom Five Divers, Inc., and several concerned individuals submitted comments.

Your Committee has amended this bill by:

- (1) Before attaching civil liability to the author or publisher, requiring that they must have knowingly or negligently encouraged or invited the person onto privately owned land that is not open to the public;
- (2) Rather than exempting the owner or occupier of the land from liability, requiring the website or publication to defend and indemnify them from any liability arising from the death or injury of the intruders;
- (3) Deleting references to criminal trespass;
- (4) Conforming its findings and purpose section to the amendments; and
- (5) Making technical, nonsubstantive revisions for clarity, consistency, and style.

Your Committee requests the Committee on Judiciary, should it decide to hold a hearing on this bill, to review, analyze, and address any constitutional concerns regarding this bill.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 548, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 548, H.D. 1, and be referred to the Committee on Water, Land, & Ocean Resources.



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



TOM BROWER, Chair



HSCR 197

State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Tourism

Bill/Resolution No.: HB 548	Committee Referral: TOU, WLO, JUD	Date: 02/07/11
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The committee is reconsidering its previous decision on the measure.

The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold
 Pass short form bill with HD to recommit for future public hearing (recommit)

TOU Members	Ayes	Ayes (WR)	Nays	Excused
1. BROWER, Tom (C)	✓			
2. TOKIOKA, James Kunane (VC)	✓			
3. AWANA, Karen L.	✓			
4. CHOY, Isaac W.	✓			
5. EVANS, Cindy	✓			
6. HASHEM, Mark J.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NISHIMOTO, Scott Y.				✓
9. TSUJI, Clift	✓			
10. CHING, Corinne W.L.	✓			
11. MARUMOTO, Barbara C.	✓			
TOTAL (11)	10			1

The recommendation is: Adopted Not Adopted
 If joint referral, _____ did not support recommendation.
committee acronym(s)

Vice Chair's or designee's signature: _____

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