

STAND. COM. REP. NO.

504

Honolulu, Hawaii

MAR 03 2011

RE: S.B. No. 1041

S.D. 1

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
S.B. No. 1041 entitled:

"A BILL FOR AN ACT RELATING TO RANGE LAND LIABILITY,"

begs leave to report as follows:

The purpose and intent of this measure is to protect owners of range land from the effects of trespassing crimes by creating a rebuttable presumption that an owner of range land owes no duty of care toward a trespasser for injury, property damage, or death that occurs on the range land, provided that the land is enclosed, and has signage indicating that the property is private property, and the range land owner is not grossly negligent and does not intentionally cause the injury, property damage, or death.

Your Committee received testimony in support of this measure from the Hawaii Farm Bureau Federation and the Hawaii Cattlemen's Council, Inc. Your Committee received testimony in opposition to this measure from the Hawaii Association for Justice.

Your Committee finds that trespassing crimes are a serious problem to cattle ranchers and the producers of other agricultural commodities across the State. Trespassers use private property without permission for hiking, hunting, dirt biking, and sometimes illegal activities. While these trespassers are on ranch land without permission, they can injure themselves then sue the ranch land owners. Your Committee further finds that it is unreasonable to require owners of ranch land to make safe their land for trespassers.

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Your Committee notes that there is another measure, S.B. No. 1079, that has been referred to your Committee and also relates to agricultural and ranch land owner liability to trespassers. S.B. No. 1079 overlaps somewhat with this measure as received by your Committee on Judiciary and Labor. Your Committee expects that this measure as received and S.B. No. 1079 will be merged by subsequent committees in an effort to establish a consistent objective to resolving the issues in this measure.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (2) 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 S.B. No. 1041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1041, S.D. 1, and be placed on the calendar for Third Reading.

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



CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

| | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------|----------|----------|
| Bill / Resolution No.:* SB 1041 | Committee Referral: JDL | Date: 2/7/11 | | |
| <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) | ✓ | | | |
| SHIMABUKURO, Maile (VC) | ✓ | | | |
| GABBARD, Mike | | | | ✓ |
| IHARA, Jr., Les | | ✓ | | |
| SLOM, Sam | ✓ | | | |
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| TOTAL | 3 | 1 | 0 | 1 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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