

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Judiciary**

March 3, 2011

H.B. No. 1524 HD1: RELATING TO AGRICULTURAL THEFT

Chair Keith-Agaran and Members of the Committee:

We have concerns regarding H.B. No. 1524 HD1 which creates a prima facie case for theft if a person is found in possession of more than five pounds of an agricultural product even if the product was possessed on the premises in question. We are concerned that this provision shifts the burden of proof from the state of the defendant. Although a prima facie case does not equate to proof beyond a reasonable doubt, it does place the burden on an accused to present some amount of evidence to prove his/her innocence.

The fear is that this provision can be used by property owners against disfavored employees if those employees possess the amount of agricultural products specified in the bill. These employees can then be arrested, terminated from employment, and be forced to hire an attorney to defend themselves even though the possession of products may have been innocent.

Thank for the opportunity to comment on this measure.



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March 2, 2011

Rep. Keith-Agaran
Hawaii State Capitol, Room 326
415 So. Beretania Street
Honolulu, Hawaii 96813

Dear Rep. Keith-Agaran:

RE: HB1524 Relating to Agricultural theft

The Waimanalo Agricultural Association supports HB 1524. We believe that this would put the burden of proof on the perpetrator and not the victim. We also believe that this is just plain common sense. The bill does not necessarily need to state a specific value or quantity. If a thief is on private property with product or equipment in hand, without proof of ownership, they are in the wrong and need to be arrested, charged and prosecuted.

We would urge you to please pass HB1524.

Mahalo,

Clifford Migita
President WAA



Annette Lee, Member
Ace Farm LLC
41-208 Hihimanu Street
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February 10, 2011

Rep. Keith-Agaran
Hawaii State Capitol, Room 326
415 So. Beretania Street
Honolulu, HI 96813

Rep. Keith-Agaran

RE: HB1524 SUPPORT

As a farmer, I am fully in support of HB1524 and I encourage the passing of this bill. I believe this would greatly add to the current law and is an addition that is desperately needed. Farmers work from dawn to dusk and just when a crop or plant is ready to sell, thieves take all of the projected profits. It is very disheartening to have this happen. This would put the burden of proof on the assumed thief and not the victim.

Yours Truly,

Annette Lee, Member
Ace Farm LLC

Testimony for HB1524 on 3/3/2011 2:30:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 02, 2011 5:32 PM

To: JUDtestimony

Cc: esther2007@hawaii.rr.com

Testimony for JUD 3/3/2011 2:30:00 PM HB1524

Conference room: 329

Testifier position: support

Testifier will be present: No

Submitted by: Esther Ohta

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Submitted on: 3/2/2011

Comments:

I strongly support HB1524. This would give the police more help in arresting ag thieves. Ag thefts cost everyone more money.