

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 1524
H.D. 2
S.D. 2

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 1524, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURAL THEFT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require persons sentenced for theft in the first, second, third, or fourth degree for an offense involving theft of an agricultural product or commodity to pay restitution to the victim in an amount equal to the value of what was stolen and the cost of replanting; and
- (2) Make theft of agricultural commodities marketed for commercial purposes and for which a person has failed to maintain a certificate of ownership or other written proof of ownership an offense of theft in the second degree.

Prior to the hearing on this measure, your Committee posted a proposed S.D. 2 for review and comment. The proposed S.D. 2 amended this measure by deleting its contents and inserting language that:

- (1) Requires certain actions by a buyer and seller prior to and upon a sale of an agricultural commodity, including completion of a certificate upon each sale of an



agricultural commodity to include a description of the commodity; the amount and value of the commodity; seller's name, address, telephone number, and license plate number of any vehicle used to deliver the commodity; farm owner's name and address of origin; buyer's or consignee's name; seller's signature; and buyer's or consignee's signature;

- (2) Makes theft of agricultural commodities marketed for commercial purposes and for which a person has failed to maintain a certificate of ownership an offense of theft in the second degree;
- (3) Establishes failure to retain the required certificate of ownership or other written proof of ownership while in possession of agricultural commodities as prima facie evidence of theft in the second degree; and
- (4) Repeals citation and summon procedures relating to violations of part II of chapter 145, Hawaii Revised Statutes, and establishes the violations as criminal offenses.

Your Committee received testimony in support of the proposed S.D. 2 from the Department of Agriculture; Hawaii Farm Bureau Federation; Hawaii Cattlemen's Council; W.H. Shipman, Ltd.; and two private individuals. The Department of the Attorney General submitted comments.

Your Committee finds that agricultural theft is a serious problem for many farmers in the State and existing laws are not stringent enough to deter potential thieves. The proposed S.D. 2 may serve as a greater deterrent of agricultural theft by making the failure to maintain certificates of ownership or other written proof of ownership of agricultural commodities a criminal offense. Furthermore, the proposed S.D. 2 will allow prosecutors to develop stronger cases against thieves of agricultural products and commodities.

Your Committee has amended this measure by adopting the proposed S.D. 2 and further amending this measure by:

- (1) Reinserting language from the original measure to require persons sentenced for theft in the first, second, third, or fourth degree for an offense involving



theft of an agricultural product or commodity to pay restitution to the victim in an amount equal to the value of what was stolen and the cost of replanting;

(2) Adopting the language suggested by the Department of the Attorney General to:

(A) Clarify that a copy of the certificate of ownership and movement is required to be presented upon request to a law enforcement officer or any other person authorized and designated by the Board of Agriculture;

(B) Delete redundant language that, in addition to the theft of agriculture commodities, requires proof that the person failed to maintain a certificate of ownership to constitute the offense of theft in the second degree;

(C) Clarify that the agricultural commodities referred to under section 708-831, Hawaii Revised Statutes, means commodities generally known to be marketed for commercial purposes, not marketed for commercial purposes at the time of the theft; and

(D) Define agricultural commodities under section 708-831, Hawaii Revised Statutes;

(3) Adopting the language suggested by the Hawaii Farm Bureau Federation to:

(A) Specify under section 708-831(1), Hawaii Revised Statutes, the contents of signs to give sufficient notice to exclude intruders from a fenced or enclosed premise containing an aquacultural product or agricultural equipment, supplies, or products; and


(B) Including theft of agricultural equipment, supplies, or products under the offense of theft in the second degree if at the point of entry of the premise, a crop is visible; and

(4) 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. 1524, 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. 1524, H.D. 2, S.D. 2.

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

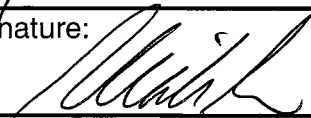


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1524, HD 2, SD 1	AGL, JDL	4/3/12		
<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				✓
TOTAL	3			2
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