

STAND. COM. REP. NO. 3141

Honolulu, Hawaii

APR 03 2012

RE: H.B. No. 1879
H.D. 2
S.D. 1

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

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 1879, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE ONE CALL CENTER,"

begs leave to report as follows:

The purpose and intent of this measure is to make permanent the exclusion of pest control operators' activities from the definition of "excavation" under the One Call Center law by repealing the sunset provision in Act 72, Session Laws of Hawaii 2009.

Your Committee received testimony in support of this measure from the Hawaii Pest Control Association. Your Committee received comments on this measure from the Public Utilities Commission.

Your Committee finds that this measure would exempt all pest control operators from having to comply with the State's One Call utility notification law. Your Committee is cognizant that complaints about the shallow excavation done by pest control companies are miniscule. Your Committee further finds that federal law permits a state to assess, rank, and consider appropriate participation by excavators in a state one call notification program.

Your Committee notes that the companion to this measure, S.B. No. 2432, S.D. 1, which was previously passed by the Senate, contains language that clarifies and extends for two years the



exemption for certain activities of pest control operators from the definition of "excavation" under the one call center law; requires exempt pest control operators to attend training provided by the Hawaii one call center; and requires the Public Utilities Commission to conduct an investigation on the risks of residential pest control application and report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2014. S.B. No. 2432, S.D. 1, contains an effective date of June 29, 2050. Your Committee concludes that S.B. No. 2432, S.D. 1, contains more comprehensive requirements and is therefore preferable.

Accordingly, your Committee has amended this measure by:

- (1) Replacing its contents with the contents of S.B. No. 2432, S.D. 1; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

Your Committee also notes that the Public Utilities Commission has the authority to issue binding interpretations or declaratory rulings to assess, rank, and take into consideration the risks to public safety, the environment, excavators, and vital public services associated with activities of different types of excavators. In March 2012, the Public Utilities Commission issued the opening order to begin its investigation to assess and evaluate the general risks caused by pest control operator activities with respect to damage caused by that industry to underground facilities. Although the Public Utilities Commission has indicated it believes it can conclude its investigation and issue a declaratory ruling by the end of the legislative session, your Committee concludes it is important for this amended measure to continue to move forward in the current legislative session.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1879, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1879, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* HB 1879 HD2	Committee Referral: CPN	Date: 3/29/12		
<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
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)				✓
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama				✓
SLOM, Sam				✓
TOTAL	4			3
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