

Honolulu, Hawaii

Feb 16, 2011

RE: H.B. No. 226
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 Committees on Water, Land, & Ocean Resources and
Agriculture, to which was referred H.B. No. 226 entitled:

"A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY,"

beg leave to report as follows:

The purpose of this bill is to establish that an owner or
occupier of land:

- (1) Owes no duty of care to:
 - (A) Keep land safe for entry or use by a person who commits criminal trespass; or
 - (B) Provide warning of a dangerous condition, use, structure, or activity on the land;
- (2) Is not liable to a trespasser for any injury or death that occurs on the property during or after the commission of certain crimes; and
- (3) Is not liable for any civil damages resulting from the acts or omissions of a person who commits criminal trespass, except for the damages that may result from the owner of land's or occupier of land's gross negligence or wilful or wanton acts that caused the injury or death.



The Department of Agriculture; Department of Land and Natural Resources; Hawaii Farm Bureau Federation; Maui County Farm Bureau; Haleakala Ranch; Land Use Research Foundation of Hawaii; Ulupalakua Ranch, Inc.; Hawaii Cattlemen's Council; Kauai Cattlemen's Association; Maui Cattlemen's Association; Kamehameha Schools; and numerous concerned individuals supported this bill. The Hawaii Association for Justice opposed this measure.

After careful consideration, your Committees have amended this bill by providing that an owner or occupier of land is not liable for any injury, death, loss, or damage suffered by any trespasser, unless the injury, death, loss, or damage:

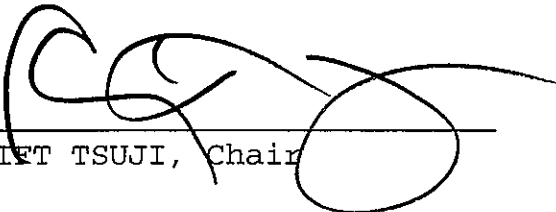
- (1) Was intentionally inflicted upon the trespasser by the owner or occupier of the land; or
- (2) Was caused by the gross negligence of the owner or occupier of the land.

Furthermore, the intentional act or gross negligence must have been committed by the person sought to be held liable.

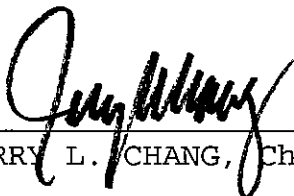
Technical, nonsubstantive amendments were also made for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Water, Land, & Ocean Resources and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 226, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 226, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Water, Land, &
Ocean Resources and
Agriculture,



CLIFF TSUJI, Chair

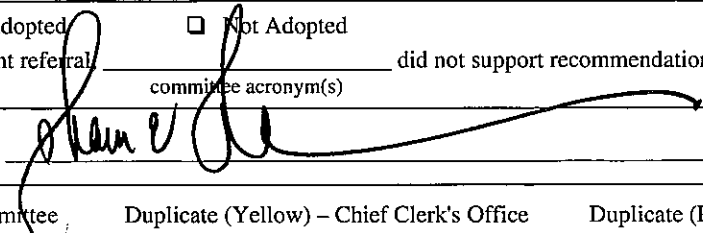


JERRY L. CHANG, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Water, Land, & Ocean Resources

Bill/Resolution No.: HB 224	Committee Referral: WLO/AGR, JUD	Date: 2/11/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
WLO Members	Ayes	Ayes (WR)	Nays	Excused
1. CHANG, Jerry L. (C)	✓			
2. HAR, Sharon E. (VC)	✓			
3. CABANILLA, Rida T.R.				✓
4. CARROLL, Mele				✓
5. CHONG, Pono	✓			
6. COFFMAN, Denny	✓			
7. HERKES, Robert N.	✓			
8. ITO, Ken	✓			
9. MORITA, Hermina M.	✓			
10. NAKASHIMA, Mark M.	✓			
11. RIVIERE, Gil				✓
12. THIELEN, Cynthia				✓
TOTAL (12)	8			4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral _____ committee acronym(s) _____ did not support recommendation.				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

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Record of Votes of the Committee on Agriculture

Bill/Resolution No.: HB 226	Committee Referral: WLO/AGR, JUD	Date: 2/11/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
AGR Members	Ayes	Ayes (WR)	Nays	Excused
1. TSUJI, Clift (C)	✓			
2. HASHEM, Mark J. (VC)	✓			
3. AWANA, Karen L.	✓			
4. BROWER, Tom	✓			
5. CHOY, Isaac W.	✓			
6. EVANS, Cindy	✓			
7. McKELVEY, Angus L.K.	✓			
8. NISHIMOTO, Scott Y.	✓			
9. TOKIOKA, James Kunane	✓			
10. MARUMOTO, Barbara C.	✓			
11. RIVIERE, Gil				✓
TOTAL (11)	10	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ committee acronym(s) did not support recommendation.				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				