

STAND. COM. REP. NO.

620

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 815
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. 815 entitled:

"A BILL FOR AN ACT RELATING TO ASSET FORFEITURE,"

begs leave to report as follows:

The purpose and intent of this measure is to require the
forfeiture of any equipment, article, instrument, aircraft,
vehicle, vessel, business record, or natural resource used or
taken in violation of the laws or rules applicable to the
Kaho'olawe Island Reserve.

Your Committee received testimony in support of this measure
from the Department of Land and Natural Resources; Kaho'olawe
Island Reserve Commission; Office of Hawaiian Affairs; Department
of the Prosecuting Attorney of the County of Maui; and two
individuals. Your Committee received comments on this measure
from the Ocean Tourism Coalition.

Your Committee finds that it is imperative that the State do
everything in its power to protect Hawaii's treasured natural and
cultural resources. The Department of the Prosecuting Attorney of
the County of Maui consistently receives reports of illegal
fishing and other activities on and around the island of
Kaho'olawe. In order to protect Kaho'olawe from these activities,
enforcement must be severe enough to effectively deter prohibited
acts. In 2008, an Intermediate Court of Appeals decision that
allowed asset forfeiture in cases of resource destruction when
applicable penalty provisions did not specifically authorize

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forfeiture was overturned by the Hawaii Supreme Court. This measure will specifically authorize asset forfeiture as a penalty for resource destruction on the Kaho'olawe Island Reserve, which will strengthen the enforcement capabilities of the Department of Land and Natural Resources and the Department of the Prosecuting Attorney of the County of Maui and provide a major deterrent to those who would harm or pillage Kaho'olawe's environmental and cultural resources.

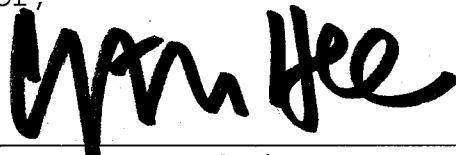
Your Committee recognizes testifiers' concerns that, should Molokini come under the jurisdiction of the Kaho'olawe Island Reserve Commission, this measure may affect activities on Molokini that may be legitimate and currently allowed. Your Committee finds that this measure specifically applies to the island reserve and that unless Molokini becomes a part of the island reserve, this measure will not be applicable.

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. 815, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 815, 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,

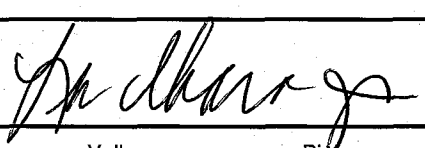


CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB815	Committee Referral: JDL	Date: 3-1-11		
<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				✓
TOTAL	2	1	0	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