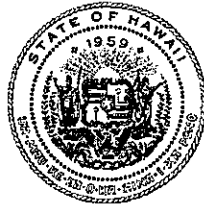


SB2377

Requires written permission from a landowner of privately owned land to allow persons with valid hunting licenses to hunt on their land. Allows the carrying of unloaded firearms and ammunition, in a closed container, between certain locations and a place of formal hunting.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
WATER, LAND, AND HOUSING**

**Thursday, February 9, 2012
1:15 PM
State Capitol, Conference Room 225**

**In consideration of
SENATE BILL 2377
RELATING TO HUNTING**

Senate Bill 2377 proposes to restrict the possession and use of firearms to persons engaged in hunting in formally established hunting areas. The purpose of the bill is to address problems related to the unauthorized use of firearms on private lands that creates safety risks and causes damage to property, crops, and livestock. The Department of Land and Natural Resources (Department) is opposed to this bill because statute and administrative rules already exist to prohibit hunting on private lands without the permission of the landowner, and because the measure would prohibit the legitimate use of firearms for natural resource protection and public safety.

Current laws already prohibit trespassing, vandalism, property damage, and poaching on private lands regardless of whether the perpetrator is carrying a firearm or claims to be legally hunting. The Department's hunting rules, Chapters 13-122 and 13-123, require landowner's approval to hunt on private lands. Requiring "written permission" may be a burden for many hunters that have good working relationships with private landowners, and hunt on neighbor islands, where obtaining written permission is difficult.

The Department also has concerns with the change in Sections 134-23, 24, 25, and 27 of its rules to allow carrying a firearms or ammunition only to "formal hunting areas". These provisions are confusing and may prohibit the carrying and use of firearms by government agencies and private partners charged with natural resource management and public safety mandates on state lands that are not "formal hunting areas". For example, invasive species pose a significant threat to natural and cultural resources, agriculture, public safety, and the economy in Hawaii. The use of firearms for the control of invasive species on state lands that are not open to hunting because of location or size is a routine part of management. This measure would prohibit the transport of firearms to those locations. This measure would also turn hunting on private property without a landowner written permission into a felony firearms offense.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

While the Department recognizes the need to address the issues cited in this bill, we suggest that other approaches be explored that would not punish the thousands of legal and courteous hunters that do follow the rules, or hinder the ability of agencies and partners to carry out their statutory mandates to protect natural resources.



SB2377

RELATING TO HUNTING

Senate Committee on Water, Land, and Housing

February 9, 2012

1:15p.m.

Room 225

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2377, which would require written permission from owners of privately owned land to allow persons with valid hunting licenses to hunt on the privately owned land.

Many Native Hawaiians currently practice hunting for subsistence and other purposes as a traditional and customary practice. The Hawai'i Constitution, Supreme Court, and this Legislature consistently protect the perpetuation of these historic practices as a living component of the Hawaiian Culture. Requiring Native Hawaiian practitioners to obtain written permission from private landowners prior to engaging in these practices would unduly burden the practices and, in some areas, could regulate them out of existence.

Hunting remains an important cultural and subsistence practice for many Native Hawaiians in rural regions. For example, a report issued by the Governor's Moloka'i Subsistence Task Force found that Hawaiian families on Moloka'i continue to rely heavily upon subsistence to supplement meager incomes, deriving 38% of their food from these activities. These practices rely primarily upon wildlife game that is abundant on privately owned land because the game on public lands is too scarce to be hunted. This report revealed that subsistence activities, including hunting, were also critical to the persistence of Hawaiian cultural customs and values.

OHA appreciates the desire to protect property rights and ensure the safety of all citizens of Hawai'i. However, SB2377 reaches too broadly by requiring prior permission from private landowners. Such requirements do not consider the difficulty most will find in attempting to obtain such permission. Much of Hawai'i's land is owned by large landowner corporations whose offices may exist on a different island from the land in question, and most landowners—even if they know hunting currently takes place on their land—would not open themselves to the liability inherent in conferring written permission for hunters to bear and use firearms on their properties.

Additionally, this bill presents many practical concerns for practitioners on the ground. The boundaries between public and private property in forested and undeveloped areas are rarely clearly marked. Also, although the Constitution broadly

protects these activities , practitioners in the field could still experience a chilling effect, as they could not be assured that agents enforcing this law properly understood the complex legal authority protecting their practices. Moreover, SB2377 places the burden upon Native Hawaiian practitioners to legally defend themselves and their lawful actions.

In light of all these concerns, OHA urges the committee to HOLD SB2377. Mahalo for the opportunity to testify on this important measure.



Hawaii Rifle Association

State Affiliate of the National Rifle Association
Founded in 1857

February 8, 2012

Testimony on SB2377 IN OPPOSITION

Before: WLH, Thurs Feb 9, 1:15pm, Rm 225

Hon. Chair, Co-Chair, Members,

HRA opposes this bill. Written permission is rare now in our experience and would add a significant burden to hunter and landowner. Landowners may be reluctant to allow access. Absence of written permission isn't necessary for an enforcement officer to make an arrest. The officer just asks if the hunter knows the landowner's name and has the owner's phone number. He can then verify with his phone in the field. The hunter should have that information and if he doesn't, he's most likely trespassing, but the officer can get it from dispatch and call the landowner.

The current bill language doesn't even require the written permission to be on the person, so it's unenforceable.

The problem doesn't need a new law; it needs enforcement of the current laws and stricter sentencing. Enforcement officers are currently advised to stay in the office, not patrol, make no arrests, and are not presently at work on weekends at all, due to budget shortfalls. The judges currently give no jail time, and the fine is modest. There is no provision to seize the vehicles of poachers as is common on the mainland. Even if the justice system fails to provide adequate deterrence, if an arrest is made, the landowner can file a civil suit.

We empathize with and support the agricultural community, we believe poaching and agricultural theft is rampant in our state and must be better controlled, but this bill does not fix anything.

Thank you for the opportunity to testify on behalf of HRA.

Dr. Maxwell Cooper

225-6944



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, 4th Floor
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

February 7, 2012

Senator Donovan M. Dela Cruz, Chair
Senator Malama Solomon, Vice Chair
Committee on Water, Land, and Housing

Support of SB 2377 Relating to Hunting. (Requires written permission from landowner of privately owned land to allow persons with valid hunting licenses to hunt on their land.)

Wednesday, February 9, 2012, 1:15 p.m., in CR 225

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

We appreciate the opportunity to provide our testimony **in support of SB 2377**, and offer **comments**.

SB 2377. The purpose of this bill is to require those who wish to access private land for hunting or other legitimate purposes to obtain written permission from the landowner. The measure also allows the carrying of unloaded firearms and ammunition, in a closed container, between certain locations and a place of formal hunting.

LURF's Position. LURF members include private property owners, farmers and ranchers who own, occupy, and maintain private property, and who consider such land resources critical to their well-being, to conduct their operations, and to sustain their businesses. This bill is an attempt to strengthen existing laws which inadequately protect these owners and occupiers of private land from bodily injury and damage to property, livestock and crops as a result of entry onto private property by trespassers engaged in hunting with firearms.

Owners of land, particularly unimproved and unused lands, including farmers and ranchers, have continually experienced problems with trespass by hunters, as well as damage and injury caused by these trespassers, yet have had no recourse against them, and have in fact been defenseless against claims by such trespassers for incidents and injuries suffered on their own private lands, despite the trespassers' illegal entry.

LURF believes that requiring those who wish to access private land for hunting or other legitimate purposes to obtain written permission from the landowner is the very least that should be done to address the ongoing concerns of property owners relating to trespass.



TESTIMONY BEFORE THE SENATE COMMITTEE ON
WATER, LAND, AND HOUSING

SENATE BILL 2377

RELATING TO HUNTING

PRESENTED TO THE TWENTY-SIXTH LEGISLATURE

FEBRUARY 2012

CHAIRPERSON DELA CRUZ and Members of the Committees:

STRONG SUPPORT.

My name is Loren Mochida, Director of Agricultural Operations at W. H. Shipman, Limited in Keaau on the Big Island. We are a local kamaaina-family owned land management company that is engaged in Agriculture and Commercial/Industrial development and leasing. We currently lease lands to over 130 individually growers at W.H. Shipman, Ltd.

W. H. Shipman, Ltd., and their growers provide strong support to SB 2377, Relating to Hunting. This will require written permission from a landowner of privately owned land to allow persons with a valid hunting license to hunt on their land. Presently there are no procedures to control illegal hunters hunting on private lands.

This is a safety issue to the farmers and ranchers and their families and workers. Illegal hunters can verbally tell anyone that they obtained permission from the owners or the owner's representative.

Thank you very much for the opportunity to provide testimony on SB 2377.

~~XXXXXXXXXX~~

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 07, 2012 11:43 AM
To: WLH Testimony
Cc: lynn.olaa@gmail.com
Subject: Testimony for SB2377 on 2/9/2012 1:15:00 PM

Testimony for WLH 2/9/2012 1:15:00 PM SB2377

Conference room: 225
Testifier position: Support
Testifier will be present: No
Submitted by: Lynn Paul Richardson
Organization: Ola'a Banana Co.
E-mail: lynn.olaa@gmail.com
Submitted on: 2/7/2012

Comments:
HB 1950, Relating to Firearms
Insert Committee of Hearing

Testimony by: Lynn Paul Richardson
Position: Support

My name is Lynn Paul Richardson. I farm bananas on 40 acres in the Puna district of the Big Island.

I support this bill because it describes the place of formal hunting and requires those who are hunting on these approved hunting grounds to have a written permit from the land owner.

When it is clear what lands are approved for formal hunting and written permits are required, there is less need to approach armed hunters to determine their purpose on the land. This reduces the risk and harm to the farmer and landowner.

Thank you for the opportunity to testify.

Lynn Richardson

Dane Wicker

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 08, 2012 10:40 PM
To: WLH Testimony
Cc: jacinthow001@hawaii.rr.com
Subject: Testimony for SB2377 on 2/9/2012 1:15:00 PM

Testimony for WLH 2/9/2012 1:15:00 PM SB2377

Conference room: 225
Testifier position: Support
Testifier will be present: No
Submitted by: William Jacintho
Organization: Maui Cattlemen's Association
E-mail: jacinthow001@hawaii.rr.com
Submitted on: 2/8/2012

Comments:



Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743

Phone (808) 885-5599 • Fax (808) 887-1607

e-mail: HCattlemens@hawaii.rr.com

SENATE COMMITTEE ON WATER, LAND & HOUSING

Thursday February 9, 2012 1:15 am Room 225

SB 2377 RELATING TO HUNTING

Chairman Dela Cruz, Vice Chair Solomon and Members of the Committee:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports** SB 2377.

As you can well imagine, it is bad enough for landowners to have trespassers (by definition: without permission) on their property, but when trespassers carry firearms we are extremely concerned. Folks with guns often discourages the bravest of us from approaching these trespassers and asking them to leave.

Many Hawaii ranchers already allow hunters on their property, and some have worked with a permission system. Hunters who ask permission often help us take care of feral pig populations, close gates behind them, and let us know when our water troughs are overflowing, or a gate has been cut. Hunters who do not seek permission are by definition not respectful of our property, and often times cut fences (allowing cattle out onto the road, a great danger to the public), leave gates open and destroy private property. The hunters who ask permission are often the ones who help us keep out the ones who don't.

The bill as written will certainly have many folks "up in arms" and some of the language may need tweaking, but we really do feel that something must be done to prevent folks from coming onto private property with guns, without permission. Of course, if asked, any trespasser I have ever met says "the tall guy said I can hunt here" so requiring written permission from the landowner or land manager takes away that lie, and allows the police to verify that the person really does have permission.

Thank you for giving me the opportunity to testify in favor of this very important issue.