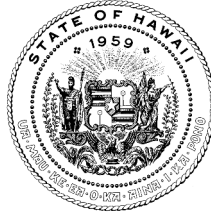


SCR85,
SD1

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
JUDICIARY AND LABOR**

**Wednesday, April 11, 2012
10:30 AM
State Capitol, Conference Room 016**

**In consideration of
SENATE CONCURRENT RESOLUTION 85, SENATE DRAFT 1
URGING THE ADOPTION OF LAWS TO REQUIRE WRITTEN PERMISSION FROM
THE LANDOWNER IN ORDER TO HUNT ON PRIVATE LANDS AND TO AMEND
CRIMINAL TRESPASS LAWS TO ADDRESS HUNTING SITUATIONS**

The purpose of Senate Concurrent Resolution 85, Senate Draft 1, is to address problems related to illegal trespass, vandalism and 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) support this resolution to help develop laws to reduce lawless behavior on private ranch and farmland, and improve enforcement.

The problem that this resolution addresses is one of trespass and hunting on private property without permission. The Department supports an amendment to Section 183D-26, Hawaii Revised Statutes (HRS), which would require showing proof of "written permission" to hunt on private land. The Department believes that additional measures to address the problem may include amending the criminal trespass statutes, "Section 708-813 Criminal trespass in the first degree", HRS, to make trespass an easier offense to enforce. This would enable a greater response from the county police departments, who have far greater resources to assist private landowners with trespass than does the Department's Division of Conservation and Resources Enforcement (DOCARE). DOCARE is already stretched to the limits with enforcement on state lands and does not have the resources to cover private lands.

The Department suggests the following amendments to Section 183D-26 and Section 708-813, HRS, as the stating points for discussion to achieve this approach.

1. Amend Section 183D-26, HRS, to read as follows:

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

"§183D-26 Hunting on private lands prohibited. [~~(a)~~] No person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained written permission from the owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

~~[(b) No prosecution shall be brought under this section, except upon the sworn complaint of the owner, occupier, or holder of the land or premises, or a duly appointed agent, or if the owner, occupier, or holder is either a corporation or a partnership, then the complaint shall be sworn to by an officer of the corporation or by one of the members of the partnership.]"~~

2. Amend Section 708-813, HRS, to read as follows:

"§708-813 Criminal trespass in the first degree. (1) A person commits the offense of criminal trespass in the first degree if:

- (a) That person knowingly enters or remains unlawfully:
 - (i) In a dwelling; or
 - (ii) In or upon the premises of a hotel or apartment building;
 - (b) That person:
 - (i) Knowingly enters or remains unlawfully in or upon premises [~~that are fenced or enclosed in a manner designed to exclude intruders~~]; and
 - (ii) Is in possession of a firearm, as defined in section 134-1, at the time of the intrusion; [~~or~~]
 - (c) That person enters or remains unlawfully on private property at night while in the possession of a firearm, as defined in section 134-1; or
 - ~~[(e)]~~ (d) That person enters or remains unlawfully in or upon the premises of any public school as defined in section 302A-101, or any private school, after reasonable warning or request to leave by school authorities or a police officer; provided however, such warning or request to leave shall be unnecessary between 10:00 p.m. and 5:00 a.m.
- (2) Criminal trespass in the first degree is a misdemeanor. "



SCR85 SD1
URGING THE ADOPTION OF LAWS TO REQUIRE WRITTEN PERMISSION FROM THE
LANDOWNER IN ORDER TO HUNT ON PRIVATE LANDS AND TO AMEND CRIMINAL
TRESPASSING LAWS TO ADDRESS HUNTING SITUATIONS.

Senate Committee on Judiciary & Labor

April 11, 2012

10:30 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **OPPOSES** SCR85 SD1, which would urge the adoption of laws to require written permission from the landowner in order to hunt on private lands and amend criminal trespassing laws to address hunting situations.

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 and heightening criminal penalties 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, the laws envisioned by this resolution reach 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 cannot be assured that agents enforcing this law properly understand the complex legal authority protecting their practices. Moreover, such laws would place 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 SCR85 SD1. Mahalo for the opportunity to testify on this important measure.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: bcraven@lanihau.net
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Wednesday, April 04, 2012 2:34:32 PM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: britt craven
Organization: palani ranch
E-mail: bcraven@lanihau.net
Submitted on: 4/4/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: pono@ponoholo.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Wednesday, April 04, 2012 1:14:00 PM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Harry M vonHolt
Organization: Ponoholo Ranch, Ltd.
E-mail: pono@ponoholo.com
Submitted on: 4/4/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: karin@princevillerranch.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Thursday, April 05, 2012 8:09:03 AM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Karin Carswell Guest
Organization: Princeville Ranch
E-mail: karin@princevillerranch.com
Submitted on: 4/5/2012

Comments:

Waimalu Valley Ranch

PO 2056, Pearl City, HI. 96782, Tel: (808) 852-9663

<http://lanisgoats.blogspot.com>



YEE-HAW!!

SCR 85, SD1

URGING THE ADOPTION OF LAWS TO REQUIRE WRITTEN PERMISSION FROM THE LANDOWNER IN ORDER TO HUNT ON PRIVATE LANDS AND TO AMEND CRIMINAL TRESPASSING LAWS TO ADDRESS HUNTING SITUATIONS

To Whom It May Concern,

I support this measure. People who trespass onto private lands have no consideration for the land owners. In addition they think it's funny to trespass and shoot animals. I've had people intentionally trespass, and shoot goats. The goats have never been a problem. They have been on the hillside for over 1.5 years without ever bothering anyone. There were only 4 goats, now there is 5, but they never was a problem. They perked themselves on the rocks, sun-bathing, they'd disappear, then reappear, but never was a problem. The goats, never went near someone's back yard. Why would they? They got huge mountainous lands to roam filled with water falls, grass, and haole Koa? But apparently for the Newtown Association they think that goats are a nuisance and that they smell.

Neverthemind, that their back yards border the forest, which is why they have view of Pearl Harbor.

For some reason, the mere sight of goats perched up on a hillside bothered and disturbed them. Apparently they hired some HPD hunters to hunt goats on their side (which I think was a made believe story), so it's a wonder how the hunters ended up on the other side and shot 2 goats? Some may even say, that "goats are appearing where they never used to be." Hello, we live on a island. Goats are on the Waianae coast, and now they are in Waimalu, and people think it's odd or strange. Now people are going to say, that goats although they exist in Waianae is not endemic to Waimalu. They are going to say, that goats are foreign to Waimalu, and that we now have a problem, because goats can only be located in Waianae. See now they are narrowing in to what is endemic and not endemic based on Ahupuaa's of the islands, and not for the entire state. The definition of endemic has practically changed.

Many several years ago, when the kings of the valley had goats, pigs and sheep. They disappeared for decades, now that they are here again, people think it's strange. We should be grateful. Well perhaps they should smell themselves, because to have animals is god's gift to us. Goats have served as a source of fresh daily milk, cheese, and even meat.

Although Newtown is surrounded by forests, they think that pigs is a problem, perhaps. In fact they think that everything is a problem!! Now, they think they got a problem with goats. It's a forest, and out of the forest is forest plants and animals. Why don't they think that birds is a problem? Or soon perhaps they will think that owls and everything that lives in the forest are problems. I personally think that they are beautiful creatures that live in the forest and is a source of protein, an example of how we can survive from the fruits and animals of the forest. However, these hunters who think they can trespass, kill just so that they shoot their guns off. Perhaps a man's ego that needs to be very well shot at. A very irresponsible behavior.

Trespassers who don't have permission to enter a private owned forest should stay out. They should also have to do community service to the land owner if they are caught.

Thank you for sharing my testimony.

Ms. Aulani Kaaihue



(The above picture is a picture of a construction worker catching a goat for meat consumption. This hunter had permission from it's owner, unlike the two "HPD hunters" who didn't.)

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: gregf@haleakalaranch.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Wednesday, April 04, 2012 7:29:20 PM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Gregory Friel
Organization: Haleakala Ranch Company
E-mail: gregf@haleakalaranch.com
Submitted on: 4/4/2012

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 JUDICIARY & LABOR

Wednesday April 11, 2012 10:30 a.m. Room 016

SCR 85

URGING THE ADOPTION OF LAWS TO REQUIRE WRITTEN PERMISSION FROM THE LANDOWNER IN ORDER TO HUNT ON PRIVATE LANDS AND TO DEFINE PLACES OF FORMAL HUNTING

Chair Hee, Vice Chair Shimabukuro 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 SCR 85**

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.

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 other 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.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: trkahua@aol.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Monday, April 09, 2012 9:34:06 AM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Herbert M Richards III DVM
Organization: Kahua Ranch Ltd
E-mail: trkahua@aol.com
Submitted on: 4/9/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: diamondbranchhi@aol.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Wednesday, April 04, 2012 9:36:32 PM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Brendan Balthazar
Organization: Maui Cattlemens Assn.
E-mail: diamondbranchhi@aol.com
Submitted on: 4/4/2012

Comments:



LAND USE RESEARCH
FOUNDATION OF HAWAII

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April 5, 2012

Senator Clayton Hee, Chair,
Senator Maile S.L. Shimabukuro, Vice Chair
Senate Committee on Judiciary

Support of Senate Concurrent Resolution (“SCR”) No. 85, S.D. 1, Urging the Adoption of Laws to Require Written Permission from the Landowner to Hunt on Private Lands and to Amend Criminal Trespassing Laws to Address Hunting Situations.

Wednesday, April 11, 2012, at 10:30 a.m. in Conference Room 016

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 testimony **in support of SCR 85, S.D. 1, and to offer comments.**

SCR 85, S.D. 1. The intent of this Resolution is to require those who wish to access private land for hunting or other legitimate purposes to obtain written permission from the landowner, and to urge the adoption of laws to amend criminal trespassing laws to address hunting situations, specifically to restrict unlawful entry on private property while in the possession of a firearm.

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 Resolution assists these property owners by attempting to bolster 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 legal 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 concurs with the proponents of this Resolution 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, and peril to property owners relating to trespass, and agrees that it would be well if steps were also taken to enforce the proposed measure, as well as to enact new laws to more vigorously deter illegal entry onto private property.

Based on the above, LURF is in **support of SCR 85, S.D. 1**, and respectfully urges your favorable consideration.

Thank you for the opportunity to present testimony regarding this matter.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kaimiunger@gmail.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Wednesday, April 04, 2012 1:25:32 PM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Keith Unger
Organization: McCandless Ranch
E-mail: kaimiunger@gmail.com
Submitted on: 4/4/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: warrenmcfb@hotmail.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Tuesday, April 10, 2012 10:03:34 AM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Warren Watanabe
Organization: MCFB
E-mail: warrenmcfb@hotmail.com
Submitted on: 4/10/2012

Comments:



TESTIMONY BEFORE THE COMMITTEE ON JUDICIARY
AND LABOR

SENATE CONCURRENT RESOLUTION 85, SD1
URGING THE ADOPTION OF LAWS TO REQUIRE WRITTEN
PERMISSION TO HUNT ON PRIVATE LANDS

PRESENTED TO THE TWENTY-SIXTH LEGISLATURE

APRIL 2012

CHAIRPERSON CLAYTON HEE and Members of the Committee:

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 SCR 85, SD1, Urging The Adoption of Laws to Require Written Permission to Hunt on Private Lands. This Resolution urging the adoption of laws to require written permission from the landowner in order to hunt on private lands for those who wish to access private land for hunting or other legitimate purposes. Presently there are no procedures to control illegal hunters 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. Existing provisions in the law are inadequate to deter persons with firearms from trespassing on lands and potentially causing bodily injury to others and damage to property, livestock, and crops.



Thank you very much for the opportunity to provide testimony on SCR 85, SD1.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: afrancokaupo@gmail.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Wednesday, April 04, 2012 12:49:50 PM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Alex Franco
Organization: Individual
E-mail: afrancokaupo@gmail.com
Submitted on: 4/4/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: PSGMikilua@aol.com
Subject: Testimony for SCR85 on 4/11/2012 10:30:00 AM
Date: Thursday, April 05, 2012 5:39:40 AM

Testimony for JDL 4/11/2012 10:30:00 AM SCR85

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Phyllis Shimabukuro-Geiser
Organization: Mikilua Farm Bureau Center
E-mail: PSGMikilua@aol.com
Submitted on: 4/5/2012

Comments: