

Honolulu, Hawaii

March 24, 2016

RE: S.B. No. 2107

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 2107 entitled:

"A BILL FOR AN ACT RELATING TO PEN REGISTERS,"

begs leave to report as follows:

The purpose of this measure is to include cellular networks, cellular telephones, and other modern communication devices in relevant provisions of Hawaii's electronic eavesdropping law.

Specifically, this measure:

- (1) Amends the definition of "pen register" to include cell phones and other modern communication devices among those from and to which transmitted telephone numbers may be recorded; and
- (2) Clarifies that a judge may issue an order authorizing the Attorney General or a county prosecuting attorney to attach a pen register or a trap or trace device to a cellular telephone, electronic device, or service.

Your Committee received testimony in support of this measure from the Police Department and the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that the existing definition of "pen register" uses outdated references to devices attached to telephone lines or impulses transmitted through telephone lines.



Your Committee recognizes that Hawaii residents increasingly use cellular devices and Internet-based forms of communication, rather than telephone land lines. This measure makes the definition of "pen register" technology-neutral by including devices that do not use a landline to make phone calls, such as cellular telephones and electronic devices that make phone calls via the Internet or software applications. Your Committee notes that this measure does not change the "probable cause" standard or burden of proof that law enforcement needs to meet to obtain an order for a pen register.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2107 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

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



ANGUS L.K. MCKELVEY, Chair



