

STAND. COM. REP. NO. **182**

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 470
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 470, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO KAHO'OLAWE ISLAND RESERVE,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that property or natural resources used or taken in violation of laws or rules pertaining to the Kaho'olawe Island Reserve may be subject to seizure, disposal, and forfeiture in accordance with existing law if the offense occurs within the fast lands of the reserve or by persons or on vessels located in the area extending seaward one nautical mile of the shoreline of the Kaho'olawe Island Reserve.

Your Committee received testimony in support of this measure from the Office of Hawaiian Affairs and thirteen individuals. Your Committee received testimony in opposition to this measure from the Activities & Attractions Association of Hawaii; Kahikolu Ltd., d/b/a Quiksilver; Ocean Tourism Coalition; and Maui Chamber of Commerce.

Your Committee finds that the Hawaii Supreme Court, in Carlisle v. One (1) Boat, overturned an Intermediate Court of Appeals decision that allowed non-natural resource forfeiture in cases of natural resource destruction or degradation. According to the decision, the penalty provisions for violations of laws or administrative rules relating to resource protection, which would include those of the Kaho'olawe Island Reserve Commission, must specifically authorize forfeiture. By providing the civil

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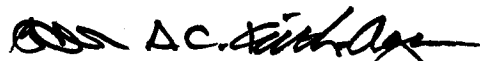
enforcement mechanism of asset forfeiture, this measure provides a critical tool to address and deter violations of laws and rules with respect to the restoration and protection of the Kaho'olawe Island Reserve and its natural and cultural resources.

Your Committee has amended this measure by:

- (1) Clarifying that civil asset forfeiture is subject to limitations on excessive forfeitures under section 712A-5.5, Hawaii Revised Statutes;
- (2) Requiring the Kaho'olawe Island Reserve Commission to adopt rules with the Department of Land and Natural Resources to implement the forfeiture penalties; and
- (3) Making a conforming amendment to the purpose section.

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. 470, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 470, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,

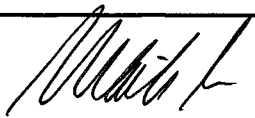


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 470 SD1	Committee Referral: WTL/HWN, JDL	Date: 3/3/15		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
TOTAL	7			
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