

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON JUDICIARY

March 29, 2016
2:00 P.M.
CONFERENCE ROOM 325

**SENATE BILL NO. 2802 SD1 HD1
RELATING TO HUNTING ON PRIVATE LANDS**

Chairperson Rhoads and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2802 SD1 HD1 which requires hunters to first obtain written permission from the landowner or occupier or holder under such landowner before entering private property. The written permission may be in the form of an "expression of permission conveyed and stored by electronic means". This measure also ensures that traditional and customary rights set forth in the State Constitution are upheld. The Department supports this administration bill.

Agricultural theft and agricultural vandalism have been a constant problem for Hawaii's farmers, increasing the cost of production and preventing farming operations to be successful. The vast farming land area throughout Hawaii and limited number of law enforcement officers make it difficult to capture perpetrators. This measure does not prohibit hunting on private lands. It will ensure greater safety and peace of mind for landowners who are often agriculturalists to control access to their properties.



Should a landowner choose to allow their “written permission” to be in the form of an “expression of permission conveyed and stored by electronic means”, it will be the responsibility of the landowner to ensure its authenticity.

Thank you for the opportunity to submit our testimony.



SB2802 SD1 HD1
RELATING TO HUNTING ON PRIVATE LAND
House Committee on Judiciary

March 29, 2016

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2802 SD1 HD1, which would require hunters on private lands to first obtain written permission to hunt from the landowner, occupier, or holder of such lands.

Many Native Hawaiians currently engage in 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 practices as a living component of the Hawaiian culture. However, while Native Hawaiians may reasonably engage in such practices on less-than-fully-developed lands notwithstanding certain trespassing and other laws, the written permission requirement of this bill may unduly burden practitioners who wish to do so, while also complying with statutory provisions.

Hunting remains an important cultural and subsistence practice for Native Hawaiians, many of whom may rely more heavily than others on wild-caught game. For example, while Native Hawaiians participate in the labor force at higher rates than the statewide population, Native Hawaiians earn substantially less than the state median income, with an average annual per-capita income of \$9,000 less than the statewide average.¹ Such data suggests that Native Hawaiians may have a higher reliance on traditional subsistence gathering, including hunting, as an alternative to store-bought food, to supplement relatively limited incomes and support their families' quality of life.

This reliance may be particularly pronounced in rural areas, as illustrated in the report issued by the Governor's Moloka'i Subsistence Task Force. This report found that **Hawaiian families on Moloka'i rely heavily upon subsistence practices to supplement meager incomes, deriving up to 38% of their food from these activities.** Such practices rely primarily upon wildlife game that is abundant on privately owned land, because game on public lands is too scarce to be reliably hunted. The report further found that subsistence activities, including hunting, were critical to the persistence of the Hawaiian cultural customs and values for which Moloka'i and other rural, kīpuka communities are reknowned for. Updated data from 2014 found that Native Hawaiians on Moloka'i continue to share the sentiment that subsistence is "very important" for their families' livelihood. Notably, Moloka'i would be particularly impacted by this measure, given the substantial amount of land on the

¹ See OFFICE OF HAWAIIAN AFFAIRS, INCOME INEQUALITY AND NATIVE HAWAIIAN COMMUNITIES IN THE WAKE OF THE GREAT RECESSION: 2005 TO 2013 (2014), available at <http://www.oha.org/wp-content/uploads/2014/05/Income-Inequality-and-Native-Hawaiian-Communities-in-the-Wake-of-the-Great-Recession-2005-2013.pdf>.

island that is currently owned by a foreign, landowning corporation, from whom written permission could be very difficult to procure.

OHA appreciates this bill's apparent desire to protect the property rights of private landowners. However, **the written permission requirement of this bill may create substantial burdens for practitioners who wish to both engage in cultural hunting practices, while also avoiding the risk of arrest.** For example, as much as 90% of Hawaii's private lands are owned by 10-12 large landowners (Proceedings of the Constitutional Convention of Hawai'i of 1978), whose explicit, written permission may be much more difficult to obtain than an implicit or verbal agreement. Large landowners who may otherwise wish to permit or even promote hunting on their lands may also be discouraged from doing so, by the inconvenience or liability inherent in a written permission requirement. Thus, while the Constitution broadly protects traditional and customary hunting activities, practitioners who are not able to obtain the written permission of landowners or occupiers could experience a chilling effect, as they would bear the burden of proving their rights to enforcement agents and prosecutors who may not understand the complex legal authority protecting their practices.

OHA appreciates the Senate Committee on Judiciary and Labor's recognition that this measure may prevent Native Hawaiians from engaging in protected traditional and customary gathering constitutional rights. However, the non-codified amendments made in section 3 of SB2802 SD1 will not necessarily mitigate the chilling effect on individual practitioners who wish to hunt on private lands, given that they may still be facially subject to arrest, and would still bear the burden of proving their rights in court, if they are unable to obtain the written permission this bill requires.

Finally, OHA notes that this measure may exacerbate the disparate impact of the criminal justice system on Native Hawaiians, by increasing the risk of arrest for Native Hawaiian subsistence practitioners, including those who may not even intend to enter onto private lands. As described in OHA's criminal justice 2010 report, Native Hawaiians are overrepresented in every stage of the criminal justice process, being more likely than any other racial or ethnic group to be arrested, convicted, receive longer probation terms, receive more and longer prison sentences, and be sent to an out-of-state facility.² Given the open and often undemarcated boundaries between private and public lands, even hunters who unintentionally enter private land may find themselves liable to arrest and potential prosecution, due to their lack of explicit, written permission. The higher likelihood of Native Hawaiians to be engaged in subsistence hunting practices suggests that Native Hawaiians may be disproportionately subject to such liability.

In light of these concerns, OHA urges the Committee to **HOLD** SB2802 SD1 HD1. Mahalo for the opportunity to testify on this measure.

² THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), http://www.oha.org/sites/default/files/ir_final_web_rev.pdf.



**Department of Land and Natural Resources
Aha Moku Advisory Committee
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

**Testimony of
Winifred Basques
Aha Moku Advisory Committee Member, Lana'i**

**Before the House Committee on
JUDICIARY**

**Tuesday, March 29, 2016
2:00 PM
Conference Room 325**

**In consideration of
SENATE BILL 2802 SD1 HD1
RELATING TO HUNTING ON PRIVATE LANDS**

Senate Bill 2802 SD1 HD1 requires hunters to obtain written permission from landowners or occupiers or holders of private lands to hunt on private lands. **Aha Moku supports this measure.**

The Island of Lana'i has a long history of hunting and actually thrives on it. Because the majority of the island is owned by a single owner, it is important for the sustainability of the natural resources of the island that hunting is better controlled on the private lands. Further, all hunters must have a valid Hawaii State Hunters license.

We support the inclusion of the language in Section 3 of this Bill which states that nothing in this Act shall infringe on the traditional and customary rights set forth in article XII, section 7, of the Hawaii State Constitution.

Thank you for the opportunity to testify on this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 25, 2016 5:50 AM
To: JUDtestimony
Cc: rittew@hotmail.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/25/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Walter Ritte	Hui o Kuapa	Oppose	No

Comments: We strongly oppose this bill SB2802. It WILL negatively impact our constitutional right of Art. 12 sec. 7 of the the State Constitution, because land owners have more often than not refuse to give us permission to hunt on their lands. Walter Ritte

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 24, 2016 6:21 PM
To: JUDtestimony
Cc: darakawa@lurf.org
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/24/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments: The Land Use Research Foundation of Hawaii (LURF) SUPPORTS HB 2802, SD1, HD1, relating to hunting on Private lands, which requires hunters to obtain written permission from landowners or occupiers or holders of private lands to hunt on private lands. Thank you for the opportunity to express LURF's support for HB 2802, SD1, HD1.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 24, 2016 5:39 PM
To: JUDtestimony
Cc: gottlieb@hawaii.rr.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/24/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch Limited	Support	No

Comments: We strongly support this measure to require that proof of permission to be hunting on Private Land be in writing, or by electronic means.

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March 29, 2016

HEARING BEFORE THE
HOUSE COMMITTEE ON JUDICIARY

TESTIMONY ON SB 2802, SD1
RELATING TO HUNTING ON PRIVATE LANDS

Room 325
2:00 PM

Aloha Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau strongly supports SB 2802, SD1, requiring hunters to obtain written permission from landowners or occupiers or holders of private lands to hunt on those lands.

This bill does NOT in any way prohibit hunting on private lands. What it does do is separate the legitimate hunter from the criminal trespasser.

This bill is necessary because the current situation is extremely dangerous for both the landowner and the hunter. Over the last several years, incidents of livestock slaughtering, theft, vandalism, crop destruction, and poaching have become commonplace on farms and ranches on every island. These illegal activities must be stopped; however, the current laws relating to hunting are confusing and not easily enforced. Criminals have learned that there is no practical enforcement of the laws to prevent armed thieves and vandals from trespassing, stealing, and destroying other's livelihoods. If caught, these miscreants claim to be hunters and state that they had verbal permission to be on the property.

The burden should never be on the rancher or farmer to prove that he *did not* give permission to a gun-wielding trespasser to access his property.

Without knowing the intent of an armed trespasser on his property, a farmer or rancher may reasonably believe that the trespasser is there to steal his equipment, his livestock, or his crops. He may even think that his home and family are threatened and this could lead him to take steps to protect them. This scenario is just too dangerous for both a legitimate hunter and the farmer, and it can be avoided by the simple act of obtaining prior permission, in writing, so there is no confusion or misunderstanding.

A legitimate, law-abiding hunter would have no justification to object to this measure since he is already required by law to have permission from the landowner.

For many years, the Hawaii Farm Bureau has worked with police, prosecutors, and the Department of Land and Natural Resources to find a solution to trespass, theft, and vandalism problems. We respectfully request that this committee pass SB 2802, SD1 to clarify and help enforcement of the current laws that ALREADY prohibit trespass and prohibit hunting without permission. Please don't let another year go by without addressing the concerns of our farmers and ranchers. We sincerely believe that this can be done without penalizing legitimate hunters.

Thank you very much for your support of Hawaii's farmers and ranchers.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 6:41 AM
To: JUDtestimony
Cc: jimmygomes@hawaii.rr.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jimmy Gomes	Ulupalakua Ranch	Support	No

Comments: Please see Hawaii Cattlemen's Council testimony that was submitted. They have hit on all points that we face as land owners.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 4:41 AM
To: JUDtestimony
Cc: afrancokaupo@gmail.com
Subject: *Submitted testimony for SB2802 on Mar 29, 2016 14:00PM*

SB2802

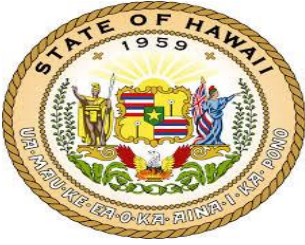
Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Franco	Maui Cattle Company	Support	No

Comments:

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LATE



HA'ULE KA LEWA, HA'ULE KA LANI, HO'ALE KA LEPO POPOLO

Malaki 28, 2016

To: Whom it May Concern

From: The 'Aha Kiole o Moloka'i

Subject: SB2802 Relating to Hunting on Private Lands- Comments only

Aloha to our Esteemed Legislators,

Moloka'i is an island that relies heavily on subsistence hunting, fishing and gathering to feed our families. These practices are necessary for many in our community, as we are well-known to lack sufficient employment and wages to provide "store-bought" only food.

Our people have had the *continuity and unbroken tradition* of practicing food-gathering since pre-Western contact Hawai'i. We are further protected by Native Hawaiian Rights laws perpetuated on the behalf of the indigenous culture within the State Constitution. Hunting, as a food source on our island, has its historic underpinnings in the introduction of the deer by our ali'i Kalakaua in the nineteenth century. Moloka'i residents have been hunting deer since that time.

The 'Aha Kiole o Moloka'i has been successfully following the Aha Moku structure, which gives residents of the island the opportunity to consult as a community regarding issues that affect the resources of the island. Recent community meetings regarding hunting has shown an interest by the people of our island in developing management plans with landowners. Our process of polling residents and facilitating discussion with involved parties is taking root, as we all are being careful in maintaining the balance between owners' rights and Native gathering rights, and subsistence needs of the residents.

We are suggesting that, rather than **removing the protection of legal gathering rights** of our resident practitioners to hunt for food, forcing the difficult and cumbersome burden of proof upon our residents as to the Constitutional rights of Native Hawaiians to exercise their customary and traditional practices, we ask that you consider alternatives that seek to allow respectful partnerships between landowners and practitioners, such as management plans and agreements that engender respect for both parties. We would look for solutions rather than create situations that encourage resentment and law-breaking in order to provide food for families, or complicated tangles regarding Native Rights laws.

Additionally, we would hope that the Aha Moku Advisory committee within the DLNR would follow the Aha Moku structure of consultation with the 'Aha Kiole Island Council, the Moloka'i representative within the Aha Moku System, before supporting measures that are in conflict with a significant portion of our island.

The 'Aha Kiole o Moloka'i:

Po'o Moloka'i- Kamalu Poepoe

Po'o Moku o Mana'e- Hano Naehu

Po'o Moku o Kawela- Mervyn Dudoit

Po'o Alaka'i- Kanoë Davis

Po'o Alaka'i o Pala'au- Kulia Keli'ikuli-Peters

Po'o 'Ahupua'a o Naiwa- Lori Buchanan

Po'o 'Ahupua'a o Kalaupapa- James Espaniola

Po'o Moku o Kaluakoi- Byron Espaniola

Po'o Resource Management- Mac Poepoe

Po'o Planning and Consultation- Walter Ritte

Po'o Education- 'Opu'ulani Albino

Po'o Culture- Loretta Ritte



Hawaii Cattlemen's Council, Inc.

LATE

COMMITTEE ON JUDICIARY
Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair

DATE: Tuesday, March 29, 2016
TIME: 2:00 p.m.
PLACE: Conference Room 325

SB 2802, SD1 HD1 – RELATING TO HUNTING ON PRIVATE LANDS.

Requires hunters to obtain written permission from landowners or occupiers or holders of private lands to hunt on private lands.
Effective July 1, 2016.

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of 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 140+ 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 2802, SD1 HD1 in requiring written permission to hunt as the current laws regarding trespassing are ineffective in protecting the rights of property owners in Hawaii.

We appreciate the hunters that do the right thing and know that there are a few bad apples that spoil the bunch. Hunters and ranchers should work hand-in-hand in stewarding the land and legitimate hunters respect the combined duty to protecting and promoting good practices to ensure the future of the land for both recreation and industry.

This issue has become a major problem for ranchers across the state. Many ranchers feel the effects from the actions of careless and irresponsible hunters. These include the loss of cattle due to indiscriminate hunters, loss of cattle due to hunting dogs that have been left by their owners, cut fences, damage to infrastructure, vandalism and damage to farm infrastructure and theft of private property.

Ranchers often experience stretches of fence that have been cut or laid down to allow the careless hunters easier access to the rancher's property. Up to 800 feet of fence in one stretch has been found destroyed by the actions of these trespassers. At times these pastures can contain cattle or other livestock and the trespassers actions produce an access point for the livestock to get out. This can lead to other unintended consequences including an animal loose on the roadway or onto a neighboring residential property and could lead to a threat to the animal's safety and that of the public safety.



Many hunters in Hawaii use hunting dogs to track and take down wild game. In some cases, the hunter is unable to find their dogs at the end of the day and decide to leave them. These hunting dogs often join the feral dog population and since they have been trained to track and take down game, cattle and baby calves are often attacked and killed. This can be particularly costly for the rancher as the value of an average cow/calf pair is around \$2,500. Ranchers have also discovered cattle that have been killed by indiscriminate hunters and trespassers.

Damages to infrastructure can also be very costly. Many ranchers utilize gravity flow water systems with flexible pipe to serve remote water troughs for their cattle. Some ranchers have discovered these flexible pipes broken by trespassers, causing great expense to fix these issues. Our ranchers have also experienced theft of private property including gas cans, chains, spotlights, or anything that they can be easily removed. Ranchers and farmers have installed large and elaborate locking systems to secure their private property and protect themselves from theft and vandalism. Also, gates have been pulled down and boulders that were placed to prevent access have been removed hours after being installed.

Careless hunters have found that the penalties for trespassing carry little penalty and are difficult to prove. The burden of establishing the right to hunt should be placed on the hunter, not on the rancher. The simple act of gaining written permission to access the land could prevent many of these issues.

Our ranchers have good relationships with responsible hunters who get written permission and they have been helpful in assisting the police in finding those hunters who aren't responsible. If a hunter has verbal permission from the landowner, then securing written permission should not be difficult to obtain.

We ask this committee to pass this SB 2802, SD1 HD1 as this measure should help both enforcement of current trespassing law and prevent hunting without written permission.

Thank you for giving me the opportunity to testify on this important matter.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 28, 2016 6:44 AM
To: JUDtestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB2802 on Mar 29, 2016 14:00PM*

SB2802

Submitted on: 3/28/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 26, 2016 3:08 PM
To: JUDtestimony
Cc: bisaacso@hawaii.edu
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/26/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Oppose	No

Comments: Many landowners and hunters have long standing relationships, and hunters are welcome on the land, but if they don't have a piece of paper, they are liable to arrest? Simple permission, verbal or otherwise, should be enough, in the case of traditional relationships, new ones may have to be established and formalized. Why not make room for exceptions?

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 28, 2016 12:43 PM
To: JUDtestimony
Cc: hawaiifishingfanatic@gmail.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/28/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Oppose	Yes

Comments: In full opposition to this legislation as it does not include language that would remove the written permission requirement that creates substantial burdens for practitioners who wish to both engage in cultural hunting practices, while avoiding the risk of arrest. Written permission may be much more difficult to obtain than an implicit or verbal agreement. Large landowners who may otherwise wish to permit or even promote hunting on their lands may also be discouraged from doing so, by the inconvenience or liability inherent in a written permission requirement. As I stated before, the merits of a recent case, State of Hawai'i v. Kui Palama, was aimed at removing the constitutionally protected rights of Native Hawaiians to exercise their traditional and customary practices to hunt in areas that have been utilized for generations. By passing this legislation, the Committee would effectively ensure that the intent of the constitutional rights afforded to Native Hawaiians would be violated and lead to more discord between private landowners and your constituents within the sporting and hunting community. I urge the Committee to oppose. Mahalo piha.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 8:31 AM
To: JUDtestimony
Cc: gregf@haleakalaranch.com
Subject: *Submitted testimony for SB2802 on Mar 29, 2016 14:00PM*

SB2802

Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gregory Friel	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 7:44 AM
To: JUDtestimony
Cc: trkahua@aol.com
Subject: *Submitted testimony for SB2802 on Mar 29, 2016 14:00PM*

SB2802

Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Herbert M "Tim" Richards III	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 7:38 AM
To: JUDtestimony
Cc: bcraven@lanihau.net
Subject: *Submitted testimony for SB2802 on Mar 29, 2016 14:00PM*

SB2802

Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
britt craven	Individual	Support	No

Comments:

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 28, 2016 8:41 PM
To: JUDtestimony
Cc: hawaii hunting association@hawaiiantel.net
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/28/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Lodge	Individual	Comments Only	No

Comments: Please Defer this Bill till more clarity can be provided for commonly encountered situations found in rural and farm areas in particular. Much Aloha, Tom Lodge

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Hawaii Hunting Association To Protect & Promote Sustainable Public Hunting in Hawaii

SB2802 HD1

LATE

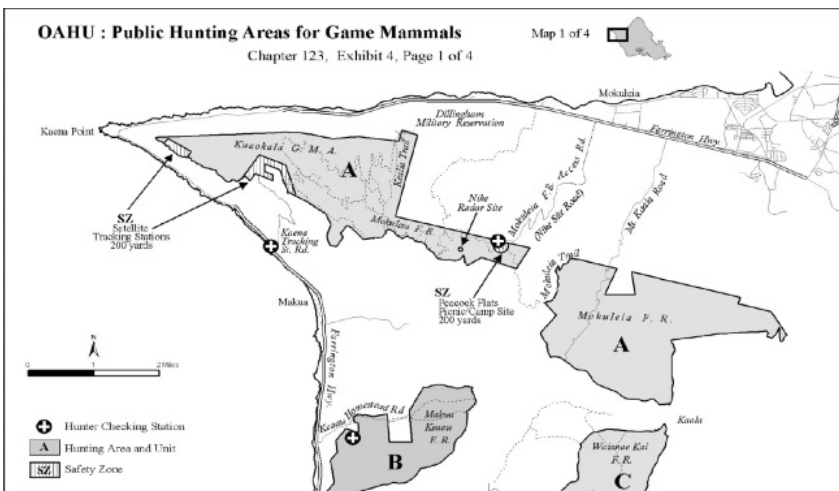
March 28, 2016

Committee on Judiciary
For Hearing on Mar 29, 2016 2:00PM
Conference Room 325
Senate Bill 2802 HD1

Dear Chair Rhodes; Vice Chair San Buenaventura Honorable Members of JUD,

RE: SB2802 HD1 we ask that you **DEFER this matter till more clarity can be determined.**

The Hawaii Hunting Association recommends that the Judiciary Committee defer this measure till more clarity can be provided as to what determines a trespass or hunting without permission. Is the land fenced, posted, marked for no hunting trespass, with proper signage, are there maps that clearly show terrain features that mark boundaries available. How would you tell, for example, where you were on these maps for Oahu?



For one thing, §183D-26 says in its entirety, SECTION 2. Section 183D-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows: " (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

16-1596 Keaau Paho Road; Keaau, HI 96749
hawaiihuntingassociation@hawaiiantel.net
(808) 982-4747

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 written permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder. For purposes of this subsection, "written permission" includes an expression of permission conveyed and stored by electronic means."

(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. [L 1985, c 174, pt of §4]

§708-814 – Criminal Trespass in the Second Degree

- (c) The person enters or remains unlawfully on **agricultural lands** without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the agricultural lands:
- (i) Are fenced, enclosed, or secured in a manner designed to exclude intruders;
 - (ii) Have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or

Unimproved or unused lands have similar description and correspondingly, Hawaii Hunting Association would like have this bill deferred in order to have clarification on process, penalty, and procedures.

Much Aloha,



Tom Lodge

LATE

Personal Legislative Testimony of: Lori Buchanan
Molokai Resident
Palaau/Naiwa Moku Representative
Member-Aha Kiole Molokai

SB2802 HD1
RELATING TO HUNTING ON PRIVATE LAND

House Committee on Judiciary
March 29, 2016
2:00 p.m.
Room 325

Dear Chair Rhoads and Honorable Committee Members,

I am writing to **OPPOSE** SB2802 HD1, which will require “hunters” to obtain written permission from landowners, occupiers, or holders of private lands to hunt on those lands.

This bill unfairly targets “hunters” and in doing so places blame of vandalism and the like on hunters instead of where they belong to criminals who trespass to cause harm on private and public lands.

As a responsible practicing subsistent hunter/gatherer, I and my ohana will suffer great harm if the state, by enactment of this bill, foregoes my constitutional rights to gather and forces me to obtain “permission” to gather/hunt for food for my family.

As a responsible and respected member of my community, I have sought out many times permission for access for traditional gathering and have been denied. This included but was not limited to hunting, beach and forest access and visitation of archeological/cultural sites. Trying to obtain permission for access and to hunt from recalcitrant, absent, off-shore and “non-responsible” landowners has not worked for many makaainana thus the need for constitutional protections. Many (not all) large landowners *choose* to give access and hunting “*privelages*” to “*special*” people and commonly use coveted hunting grounds and animals as brokerage for “*favours*”, “*tokens*” and trophy’s.

Responsible subsistent “hunters” are responsible gatherers that provide sustenance for families as they have done for generations.

Criminals trespass and cause harm. The problem is not hunters but perhaps the absence of more severe penalties to deter criminal actions while trespassing?

Thank you for this opportunity to comment, Please kill this bill.

Lori Buchanan
Molokai

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 12:37 PM
To: JUDtestimony
Cc: sabrina@ponoholo.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sabrina White	Ponoholo Ranch, Ltd.	Support	No

Comments: We strongly support this bill. We allow people that have a current hunting license to hunt on our property. Not only does pig hunting help suppress the feral pig population that significantly damages the land, it is also a cultural sport here in Hawaii. However, written permission along with a valid hunting license is essential for safety, both to the hunters as well as the landowners and their employees. On our property, hunters have to sign up for a day and check in at the headquarters to get a key. This prevents multiple groups from colliding with each other. Furthermore, we are a cattle ranch. We have to be able to control hunting access so that it doesn't interfere with the daily cattle operations to avoid injury to our employees and our livestock.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 10:44 AM
To: JUDtestimony
Cc: naheleoutfitters@gmail.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/29/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Vitousek	Nahele Outfitters LLC	Support	No

Comments: Nahele Outfitters is a Hunting guiding service on Hawaii Island. We contract with land owners to pay for access for guided hunts. We provide an insurance to cover any liability on the part of the land owner and we pay taxes on the revenue that we generate. This bill will assist us because we follow the rules and it will hopefully keep people out of the areas that we hunt that do not follow the rules. I have never found it difficult to gain legitimate access with written permission to hunt private properties. We attempt to manage the wild game for the benefit of the hunting operation and native forests. Poachers greatly hamper our efforts at game management and put our lives in danger by firing high powered rifles without knowing we are in the area.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 10:23 AM
To: JUDtestimony
Cc: kaimiunger@gmail.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/29/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Keith	McCandless Ranch	Support	No

Comments: There have been many instances where poachers have endangered the lives of McCandless Ranch personnel. This issue is about safety and McCandless Ranch strongly supports SB 2802.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 10:20 AM
To: JUDtestimony
Cc: kaimiunger@gmail.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/29/2016

Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Keith	Individual	Support	No

Comments: This is a safety issue and I strongly support SB2802.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2016 1:56 PM
To: JUDtestimony
Cc: countrylove808@yahoo.com
Subject: Submitted testimony for SB2802 on Mar 29, 2016 14:00PM

SB2802

Submitted on: 3/29/2016
Testimony for JUD on Mar 29, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Chandra Rice	Individual	Support	No

Comments: I strongly support SB2802 in requiring written permission to hunt on private lands. Current laws regarding trespassing do not protect the rights of property owners in Hawaii enough.

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LATE

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Randy Vitousek <rvitousek@cales.com>
Tuesday, March 29, 2016 11:06 AM
JUDtestimony
testimony for SB2802 on Mar 29, 2016 14:00PM

My name is Randy Vitousek. I am a life-long Hawaii hunter. I hunt game birds and mammals on both public and private land. People who hunt on private land without permission of the landowner create very real safety risks to others who are working on the land or who are on the land with permission of the landowner. I have had several experiences where I have been hunting private land with permission and have had other hunters who were on the land without permission fire high powered rifles near me and in my direction. I know the other hunters did not have permission because I was hunting in an area where only bow hunting is allowed.

Even hunters who do not use firearms can pose safety risks. The dogs used by dog/knife pig hunters can be very aggressive and on more than one occasion where I was hunting with or running my bird dogs (with landowner permission) my dogs have been attacked by pig dogs.

If hunters are required to ask permission this allows the landowner to manage their property thoughtfully and to avoid conflicts in use.

Aloha randy

Land owners have legitimate interests in limiting access to their lands.

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