



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Judiciary and Labor
Friday, February 10, 2017 at 9:30 A.M.
Conference Room 016, State Capitol**

RE: SENATE BILL 492 RELATING TO CRIMINAL TRESPASS

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 492, which amends the conditions under which the definition of "enter or remain unlawfully" shall apply with reference to criminal trespass in the second degree.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber believes that the additional language proposed to amend the current definition of "enter or remain unlawfully," including defiance of a "reasonable warning or request to leave by the owner or lessee of commercial premises, the owner's or lessee's authorized agent, or a police officer" will allow businesses to more easily charge property trespassers with the offense of burglary in the second degree and provide a greater deterrent to property theft.

Thank you for the opportunity to testify.



Executive Officers:

John Erickson, Young's Market Company –Chair
Beau Oshiro, C&S Wholesale – Vice Chair
Toby Taniguchi, KTA Superstores – Secretary/Treasurer
John Schilf, Rainbow Sales and Marketing - Advisor
Stan Brown, Acosta – Advisor
Paul Kosasa, ABC Stores – Advisor
Barry Taniguchi, KTA Superstores – Advisor
Derek Kurisu, KTA Superstores – Immediate Past Chair
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235 • Honolulu, HI 96813 • Telephone: 808-533-1292 • Fax: 808-791-0702

TO: COMMITTEE ON JUDICIARY & LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Friday, Feb. 10, 2017
TIME: 9:30 a.m.
PLACE: Conference Room 016

RE: SB492 (Enter or Remain Unlawfully)
Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

Given the nature of our industry, our members have, at one point or another, encountered a situation where they have asked an individual to leave the premises for a variety of reasons, including belligerence, solicitation, vagrancy, and more commonly, theft and burglary. We are concerned about the impact of the *State v. King* because the court's interpretation makes it immensely difficult to charge trespassed individuals with a crime.

Per this case, in Dec. 2016, the Hawaii Supreme Court ruled that a business's issuance of a warning or request to leave does not qualify as a "lawful order." As a result, an individual who defies a business's request to leave a commercial premises and who then either enters or remains on the grounds with the intent to commit a crime, cannot be charged for burglary in the second degree.

This ruling is problematic because "lawful order" is not defined in statute and we, along with the Office of the Prosecuting Attorney, believe it is reasonable to infer from existing language that it was the legislature's intention to include a business's warning and trespass in that category. SB492 remedies the issue discussed above by providing clarifying language that will aid our justice system in its ability appropriately charge and convict trespassed individuals who either commit or intend to commit a crime.

Thank you for the opportunity to provide testimony.



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LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: Submitted testimony for SB492 on Feb 10, 2017 09:30AM
Date: Friday, February 10, 2017 12:41:53 PM

SB492

Submitted on: 2/10/2017

Testimony for JDL on Feb 10, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments: Have had to deal with this on a number of issues...some involving police assistance. Hope that one day this will also apply to times when legal entry by contractors or agents are allowed to enter some spaces as well, as 10 pm rustling through the bushes only to find out it's someone trying to get to an electrical or other output is a bit odd...

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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