

STAND. COM. REP. NO. 717

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 492  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 492 entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the conditions under which the definition of "enter or remain unlawfully" applies with reference to criminal trespass in the second degree.

Your Committee received testimony in support of this measure from the Department of the Attorney General; Department of the Prosecuting Attorney, City and County of Honolulu; The Chamber of Commerce Hawaii; Hawaii Food Industry Association; and one individual. Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

Your Committee finds that the Hawaii Supreme Court held in State v. King, 386 P.3d 886 (Haw. 2016), that a violation of "reasonable warning or request" does not constitute defiance of a "lawful order". This measure clarifies that, in the context of the definition of "enter or remain unlawfully", a "lawful order" includes a "reasonable warning or request" issued pursuant to section 708-814(1)(b), Hawaii Revised Statutes.

Your Committee has amended this measure by:



- (1) Deleting the preamble section;
- (2) Amending the offense of criminal trespass in the second degree to repeal the definition of "reasonable warning or request" and clarify that a reasonable warning or request by an owner or lessee of the commercial premises, the owner's or lessee's authorized agency, or a police officer may be communicated in writing at any time within a one-year period inclusive of the date the incident occurred with certain exceptions;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 492, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 492, S.D. 1, and be placed on the calendar for Third Reading.

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

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 492</b>	Committee Referral: <b>JDL</b>	Date: <b>2/28/17</b>		
<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)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado				✓
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

\*Only one measure per Record of Votes