

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER & LAND**

**Monday, March 21, 2016
10:00 AM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 2816, SENATE DRAFT 1
RELATING TO CRIMINAL TRESPASS**

Senate Bill 2816, Senate Draft 1, proposes to add the offense of criminal trespass onto state lands to Part II of Chapter 708, Hawaii Revised Statutes, and amends criminal trespass in the second degree to include and apply to agricultural property owned by the government that is not fenced, enclosed or otherwise secured in a manner designed to exclude intruders. **The Department of Land and Natural Resources (Department) supports this Administration measure.**

Illegal trespass and illegal activities are a serious problem on state lands and in facilities overseen by the Department. The Department needs the criminal statutes to allow immediate removal of offenders, or the illegal activity can continue after a citation.

Statewide, many of the State's small boat harbors, trails, forest reserves, and unencumbered lands are inappropriately used by some members of the public as a venue for illegal activities, such as entry into closed and often unsafe areas, unpermitted camping, illegal alcohol consumption and disorderly conduct.

Trespass into restricted wildlife sanctuary areas, including endangered species habitat and seabird nesting areas, can cause mortality to native wildlife species. Off-road vehicles sometimes gain access to sensitive sanctuary and park areas and can cause extensive damage. Trespassers also include individuals who break and enter into restricted areas, crash, abandon and/or burn cars, dump garbage and/or steal government vehicles and equipment. Other trespassers are engaged in criminal activity related to drug transactions and/or use, and threaten or frighten Department employees and members of the public. Other violations can include illegal tree cutting or logging activity.

Criminal trespass laws can be an effective deterrent to these activities. Thank you for your consideration of this testimony.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA W. KALUHIWA
FIRST DEPUTY

JEFFREY. T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 2816, S.D. 1, RELATING TO CRIMINAL TRESPASS.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Monday, March 21, 2016

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Lance M. Goto, Deputy Attorney General, or
Diane K. Taira, Deputy Attorney General

Chair Yamane and Members of the Committee:

The Department of the Attorney General supports this bill and suggests one clarifying amendment.

The purpose of this administration bill is to create the new offense of criminal trespass onto state lands under chapter 708, Hawaii Revised Statutes. It addresses issues presented by individuals remaining on: (1) improved state land when it is closed or otherwise restricted; and (2) unimproved state land when it has appropriate signage stating "Government Property—No Trespassing." It clarifies that trespassing includes state land on or under any highway. The bill also amends the offense of criminal trespass in the second degree to clarify that it includes government agricultural lands that are not fenced, enclosed, or secured in a manner designed to exclude intruders.

Current criminal trespass laws apply comprehensively to private property, including dwellings, hotels, apartment buildings, private schools, fenced or enclosed properties, and commercial properties. With regard to state-owned land, current criminal trespass laws apply to public schools, enclosed agricultural lands, certain unimproved or unused land, state-owned public housing projects and state low-income housing projects, and public parks and recreational grounds. Current criminal trespass laws do not apply comprehensively to all state lands, including improved state lands, and are unclear as to their applicability to state land on, under or a part of any highway, or unfenced, unenclosed, or unsecured agricultural lands owned by the government, and with respect to harbors. This effectively leaves a gap in current criminal

trespass laws, resulting in certain state lands being without the protections afforded to other properties. This bill is intended to close that gap.

This bill would be an important crime prevention tool. It would better enable law enforcement to keep people out of harm's way and allow the State to preserve and protect its lands. As an example, this law would assist law enforcement in keeping individuals off highways where, amongst other things, copper theft is a dangerous and expensive problem. It would allow law enforcement to address as trespassers, individuals who refuse to keep out of or away from state-owned buildings and surrounding premises that are closed for business.

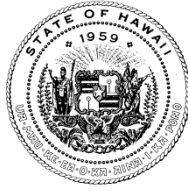
It is important to note that this bill requires appropriate signage giving notice of closure hours or stating, "Government Property – No Trespassing."

Upon additional review, we suggest one clarifying amendment, adding the words "to public use," so that subparagraph (i) of proposed section 708-__ (1)(a) on page 2, lines 1-3, would provide as follows:

- (i) The land is closed to public use and its closure hours are posted on a sign or signs on the improved state land; or

The Department respectfully requests that the Committee pass this bill with the suggested amendment.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 21, 2016
10:00 a.m.
State Capitol, Room 325

S.B. 2816, S.D. 1
RELATING TO CRIMINAL TRESPASS

Senate Committee on Water and Land

The Department of Transportation (DOT) **strongly supports** this Administration bill which adds the offense of criminal trespass onto state lands to part II of chapter 708, Hawaii Revised Statutes, and amends criminal trespass in the second degree to include and apply to agricultural and DOT property owned by the government that is not fenced, enclosed or otherwise secured in a manner designed to exclude intruders, unpermitted hikers, copper thieves, vandals and other forms of trespassers.

This bill aims to clarify an important statute that will assist the DOT in protecting its lands, property, and facilities under its jurisdiction in providing a safe, efficient, accessible, and sustainable inter-modal transportation system that ensures the mobility of people and goods, and enhances and/or preserves economic prosperity and the quality of life.

Thank you for the opportunity to provide testimony.

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:



LATE

Committee: Committee on Water & Land
Hearing Date/Time: Monday, March 21, 2016 at 10:00 a.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 2816, S.D. 1, Relating to Criminal Trespass

Dear Chair Yamane and Members of the Committee:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 2816, S.D.1, which seeks to add an additional criminal trespass offense (“criminal trespass onto state lands”) to chapter 708 of the Hawaii Revised Statutes (“HRS”) and to broaden existing criminal trespass statutes.

Existing Hawaii law already penalizes several varieties of trespass, and adding an entirely new criminal trespass offense and broadening existing offenses would be unnecessarily cumulative. *See* HRS §§ 708-13 (criminal trespass in the first degree), -14 (criminal trespass in the second degree), -15 (simple trespass). Much of the conduct prohibited by the proposed offense of “criminal trespass onto state lands” is also covered under existing Hawaii law prohibiting sleeping or camping in a state park after park closure hours. *See* Hawaii Administrative Rule (“HAR”) §§ 13-146-5 (requiring permit for camping in a state park); HRS § 184-5 (violation of park rules constitutes a petty misdemeanor). Existing Hawaii law also covers the bill’s prohibition against remaining unlawfully on any highway. *See* HRS 711-1105(1) (prohibiting obstruction of “any highway or public passage”). This bill is therefore unnecessary.

Criminal trespass laws and other regulations prohibiting use of public lands disproportionately affect homeless individuals and families. Indeed, S.B. 2816, S.D.1, seemingly targets homeless individuals by adding redundant penalties for sleeping in state parks, lands, and highways. Criminalizing the poor does nothing to alleviate homelessness. S.B. 2816, S.D.1, if passed, would merely add to an existing body of law and practices that perpetuate the cycle of poverty and would result in overly harsh punishments, over-incarceration, and wasted state money. We strongly urge this committee to defer S.B. 2816, S.D.1.

Thank you for this opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

American Civil Liberties Union of Hawaii
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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 21, 2016 9:02 AM
To: waltestimony
Cc: victor.ramos@mpd.net
Subject: *Submitted testimony for SB2816 on Mar 21, 2016 10:00AM*

SB2816

Submitted on: 3/21/2016

Testimony for WAL on Mar 21, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

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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