

STAND. COM. REP. NO. 936

Honolulu, Hawaii

March 4, 2011

RE: H.B. No. 1524
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1524, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURAL THEFT,"

begs leave to report as follows:

The purpose of this bill is to help deter agricultural theft by establishing that possession of more than five pounds of an agricultural product while on the premises and without the consent of the owner is prima facie evidence that the product is or has been stolen, unless a bill of sale is provided.

The Office of the Prosecuting Attorney, Hawaii Farm Bureau, Waimanalo Agricultural Association, and several concerned individuals supported this bill. The Department of Agriculture and Land Use Research Foundation of Hawaii supported the intent of this measure. The Office of the Public Defender opposed this bill.

Your Committee has amended this bill by:

- (1) Inserting provisions that require anyone sentenced for theft in the first, second, third, or fourth degree for theft of an agricultural product or commodity to pay restitution to the victim equal to the value of what was stolen and the cost of replanting;

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- (2) Removing language that makes the possession of more than five pounds of an agricultural product of the type that is grown on the premises prima facie evidence that the product is or has been stolen;
- (3) Removing the presumption that the lack of required ownership and movement certificates while in possession of agricultural products is prima facie evidence that the products are or have been stolen;
- (4) Including in the offense of second degree theft the failure to maintain a required certificate of ownership or other written proof of ownership of commercial quantities of agricultural commodities while in possession of those commodities; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1524, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1524, H.D. 2.

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



GILBERT KEITH-AGARAN, Chair



