

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2816  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 2816 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:

- (1) Establish the offense of criminal trespass onto state lands and make the offense a petty misdemeanor; and
- (2) Amend the offense of 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, but has appropriate signage giving notice that the property is government property and that trespassing is prohibited.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of Land and Natural Resources, and Department of Transportation. Your Committee received testimony in opposition to this measure from the Americans for Democratic Action Hawai'i, American Civil Liberties Union of Hawai'i, and two individuals.

Your Committee finds that it is not clear whether existing criminal trespass laws apply to improved state lands, state land on or under any highway, or unfenced, unenclosed, or unsecured



agricultural lands owned by the State. This measure addresses the application of criminal trespass laws with respect to state lands to provide a stronger and clearer deterrent to illegal activity.

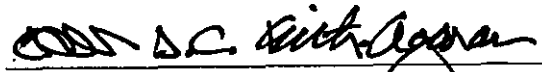
Your Committee has amended this measure by:

- (1) Deleting references to the "functional equivalent" with respect to signs that provide reasonable notice that the land is government property and that trespassing is prohibited;
- (2) Specifying that for purposes of criminal trespass onto state lands, land is not "improved state land" solely due to state maintenance activities;
- (3) Requiring the Department of the Attorney General to submit a written report to the Legislature prior to the Regular Session of 2018, regarding the extent to which the criminal trespassing laws in this measure have been utilized;
- (4) Inserting a savings clause;
- (5) Inserting a sunset date of January 1, 2021;
- (6) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (7) 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. 2816, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2816, 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-Eighth Legislature  
 State of Hawai'i

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

Bill / Resolution No.:* <b>SB 2816</b>	Committee Referral: <b>JDL</b>	Date: <b>2/29/16</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)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
KAHELE, Kaiali'i	/			
KIM, Donna Mercado				/
THIELEN, Laura H.	/			
SLOM, Sam	/			
<b>TOTAL</b>	<b>6</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<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