

Honolulu, Hawaii

APR 05 2013

RE: H.B. No. 619
H.D. 1
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 619, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FERAL BIRDS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the Penal Code to establish the offense of feeding a wild or feral bird as a violation for the first offense; and
- (2) Establish that a second or subsequent offense of feeding a wild or feral bird is a petty misdemeanor.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources and eleven individuals. Testimony in opposition to this measure was submitted by the Hawaiian Humane Society, Hawaii Island Humane Society, Wild Bird Rehab Haven, and one hundred twelve individuals. One individual submitted comments on this measure.

Prior to the hearing on this measure, your Committee made available a proposed S.D. 1 for review and comment. The proposed S.D. 1 amends this measure by deleting its contents and inserting language to:



- (1) Establish odors and filth resulting from the feeding of feral birds as a nuisance, which the Director of Health is authorized to examine and order to be abated, destroyed, removed, or prevented; and
- (2) Allow the public to report a nuisance to the Department of Health.

Your Committee received testimony in support of the proposed S.D. 1 from three individuals. Testimony in opposition to the proposed S.D. 1 was submitted by the Department of Health and Windward Ahupua'a Alliance.

Your Committee finds that the feeding of feral birds poses risks to public health. Individuals testified that the filth and odor left as a result their neighbors feeding birds in their neighborhood whether by hand or the use of birdfeeders have become a daily problem. Furthermore, the feeding of birds can attract rats to the neighborhood, which causes an additional health concern and risk. The proposed S.D. 1 is intended to mitigate this problem by including the odors and filth resulting from a person feeding feral birds as a nuisance that the Director of Health can order to be abated or prevented.

Your Committee notes the concerns raised by the Department of Health that the proposed S.D. 1 would require additional staffing that the Department has not included in its 2013-2015 Biennium Executive Budget request and therefore may adversely affect the Department's other spending priorities. Furthermore, the Department testified that it lacks standards to determine at what point the odors of filth resulting from a person feeding feral birds becomes injurious to public health. Therefore the Department expressed concerns that the proposed S.D. 1 would be unenforceable. Your Committee further notes the Department's preference to focus its limited resources in areas that are proven to be public concerns, such as controlling the incidence of food borne illness risk factors in food establishments.

However, your Committee believes that the odor and filth that results from the feeding of birds is a health and sanitation concern that is appropriate for the Department of Health to address at this time. Your Committee appreciates the Department's willingness to work with your Committee to develop language or standards to establish the feeding of birds as a nuisance that may

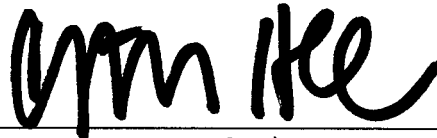


be examined and addressed by the Department as this measure moves through the legislative process.

Your Committee has amended this measure by adopting the proposed S.D. 1.

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 H.B. No. 619, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 619, H.D. 1, 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,

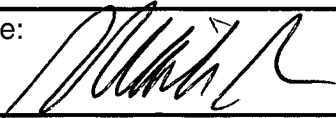


CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:	Committee Referral:	Date:		
HB 619, HD1	JDL	3/28/13		
<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
HEE, Clayton (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	WR /	✓		
IHARA, Jr., Les				✓
SLOM, Sam			✓	
TOTAL	2	1	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

***Only one measure per Record of Votes**