



The Senate  
State of Hawaii

STATE CAPITOL

HONOLULU, HAWAII 96813

March 28, 2006

TO: Members of the Senate Committee on Judiciary and Hawaiian Affairs  
FROM: Sen. Colleen Hanabusa, Chair  
SUBJECT: Chair's inclinations for decision making on Wednesday, March 29, 9:00 a.m.

**The following measures were previously heard on Friday, March 24:**

| Bill NO.                          | Description   | Referral        |
|-----------------------------------|---|-----------------|
| HB 1955<br>HD1, SD1<br>(SSCR2963) | RELATING TO LITTER CONTROL.<br>Increases the mandatory minimum fines for littering violations, including littering from a motor vehicle, littering in public, and criminal littering. (SD1)<br><b>Chair's inclination: Pass As Is.</b>  | EIA/IGA,<br>JHW |
| HB 1947<br>(SSCR2937)             | RELATING TO LIABILITY.<br>Clarifies that any decision of the State, the department of transportation, the counties, or any officer, employee, or agent thereof, to select or apply flexible highway design shall not give rise to a cause of action or claim against them.<br><b>Chair's inclination: SD1</b> – Amend to 1) insert a provision extending the deadline in section 3 of Act 185, Session Laws of Hawaii 2005 from June 30, 2006 to December 31, 2006 for the director of transportation to establish flexible highway design guidelines and 2) change the effective date of this measure from July 1, 2006 to June 1, 2006 in order to allow the first change noted above to take effect. The Committee report will note that the Director of the Department of Transportation requested an extension to June 30, 2007. However, in consideration of the agreement reached among various government officials and communities to the existing deadline of June 30, 2006, the Chair is agreeable to a compromise allowing for an extension to December 31, 2006. | TGO, JHW        |
| HB 2422<br>HD1, SD1<br>(SSCR2957) | RELATING TO HIGHWAY SAFETY.<br>Increases the penalties for motorists who violate Hawaii's crosswalk law. (HB2422 HD1)<br><b>Chair's inclination: SD1</b> – Amend to: 1) incorporate the comments submitted by the Judiciary to change "conviction" or similar references to a case disposition where a defendant has been adjudicated guilty of a criminal matter to "failure to comply" because traffic violations are treated as civil matters; 2) provide that persons subject to revocation of their license for failure to comply with Hawaii's crosswalk law will not be required to show proof of financial responsibility pursuant to HRS 287-20, however, the court may set an appropriate amount to be paid by the defendant as proof of financial responsibility for the reinstatement of the defendant's license and privilege to operate a vehicle to address a concern raised by the Office of the Public Defender; and 3) make a technical, non-substantive amendment.   | TGO, JHW        |

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| <p>HB 2639<br/>HD2, SD1<br/>(SSCR2956)</p> | <p>RELATING TO USE OF INTOXICANTS WHILE OPERATING A MOTOR VEHICLE.<br/>Increases sanctions for driving with a high blood alcohol level. Eff. 7/1/07 (SD1)<br/><b>Chair's inclination: SD1</b> – Amend to change the definition of "highly intoxicated driver" to a person whose measurable amount of alcohol is 0.20 or more grams of blood or breath alcohol reading for the purpose of enhanced penalties under driving while intoxicated. The Committee Report will note that the amendment is in consideration of the Judiciary's comment that this bill blurs the line between first time offenders and repeat intoxicated drivers.</p> | <p>TGO, JHW</p>         |
| <p>HB 2691<br/>SD1<br/>(SSCR2951)</p>      | <p>RELATING TO PREVAILING WAGES.<br/>Allows a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 to institute an action for injunctive and other relief against an employer that fails to pay its employees the prevailing wage. (SD1)<br/><b>Chair's inclination: SD1</b> – Amend to insert a defective effective date of July 1, 2091 to allow for continued discussion on this measure. This Committee similarly inserted a defective effective date of July 1, 2050 in SB 3016, SD1, the Senate companion to this measure.</p>  | <p>LBR, JHW</p>         |
| <p>HB 3254<br/>HD1<br/>(SSCR2955)</p>      | <p>RELATING TO OATHS OF OFFICE.<br/>Repeals various provisions that require public employees to take a loyalty oath. (HB3254 HD1)<br/><b>Chair's inclination: Pass As Is.</b></p>  | <p>LBR, JHW</p>         |
| <p>HB 1706<br/>HD3, SD1<br/>(SSCR2977)</p> | <p>RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT.<br/>Provides for environmental covenants for contaminated property to ensure long-term compliance with requirements needed to protect the public and environment when complete removal of contaminants is not feasible, practical, or necessary. (SD1)<br/><b>Chair's inclination: Defer to Monday, April 3, 2006 at 9:00 am in CR 229</b></p>   | <p>EIA, JHW</p>         |
| <p>HB 2058<br/>(SSCR2974)</p>              | <p>RELATING TO THE REPRODUCTIVE RIGHTS PROTECTION COMMITTEE.<br/>Repeals the reproductive rights protection committee for not having served its intended purpose by being inactive for the last 8 years.<br/><b>Chair's inclination: Hold</b> because the House voted to approve SB 2506, HD1, the Senate companion to this bill, which has very minor differences from this bill.</p>   | <p>HTH/HMS,<br/>JHW</p> |
| <p>HB 2708<br/>HD2, SD1<br/>(SSCR2996)</p> | <p>RELATING TO ADVERTISING.<br/>Prohibits commercial advertising for compensation on vehicles. Provides penalties. (SD1)<br/><b>Chair's inclination: Defer to Monday, April 3, 2006 at 9:00 am in CR 229</b></p>   | <p>TGO/IGA,<br/>JHW</p> |

**The following measures were previously heard on Tuesday, March 28:**

| Bill NO.                          | Description   | Referral             |
|-----------------------------------|---|----------------------|
| HB 2133<br>SD1<br>(SSCR3024)      | RELATING TO THE NATURAL AREA RESERVE SYSTEM.<br>Prohibits public vehicular access in Kaena Point natural area reserve. (SD1)<br><b>Chair's inclination: Pass As Is.</b>   | Referral<br>WLA, JHW |
| HB 2772<br>HD1, SD1<br>(SSCR3021) | RELATING TO CRIMINAL PROPERTY DAMAGE TO AGRICULTURAL AND AQUACULTURAL PROPERTY.<br>Establishes intentionally and knowingly damaging the agricultural or aquacultural equipment, supplies, or products of another as the crime of criminal property damage. (SD1)<br><b>Chair's inclination: SD1</b> – Amend in accordance with testimony submitted by the Prosecuting Attorney to provide that in calculating the value of damage, the value of future crops that were damaged is included. The Committee Report will note that there was a concern raised by the Public Defender about subjecting a person to criminal penalties in situations where the person removes a portion of a tree that is trespassing on their property. In response, the Prosecutor's Office explained that this bill is intended to apply to commercial agriculture and aquaculture, and not in situations of the "trespassing tree" that is grown or maintained for other than commercial purposes. The Prosecutor's Office noted that the criminal penalty only applies where damage is done to the agricultural equipment, supplies or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other's consent. The definition of agricultural equipment, supplies, or products and aquacultural equipment, supplies, or products both specifically reference products raised, grown, or maintained by a commercial agricultural enterprise, aquacultural enterprise, or research agency while owned by the enterprise or agency. | WLA, JHW             |
| HB 2208<br>HD1<br>(SSCR2984)      | RELATING TO COUNTIES.<br>Extends statute of limitation for actions against a county for damage or injury from 6 months to 2 years. Permits the counties to identify, by charter, the person to whom claimant should give notice of claim for injuries or damage sustained on public property or as a result of the negligence of county official or employee. (HB2208 HD1)<br><b>Chair's inclination: Pass As Is.</b>   | IGA, JHW             |
| HB 1819<br>HD1<br>(SSCR2993)      | RELATING TO CHAPTER 281, HAWAII REVISED STATUTES.<br>Corrects various inconsistencies and erroneous references in sections 281-35, 281-41, and 281-94, HRS, relating to intoxicating liquor. (HB1819 HD1)<br><b>Chair's inclination: Pass As Is.</b>  | IGA/TGO,<br>JHW      |