



The Senate  
State of Hawaii

STATE CAPITOL

HONOLULU, HAWAII 96813

March 29, 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 Thursday, March 30, 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: SD2</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: SD2</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: SD2</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>   | 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: SD2</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 |

**The following measures were previously heard on Wednesday, March 29:**

| Bill NO.                     | Description  | Referral |
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| HB 2857<br>HD1<br>(SSCR3077) | RELATING TO HISTORIC PRESERVATION.<br>Makes a knowing violation of the conditions of an approved mitigation plan that includes monitoring and preservation plans a civil and administrative violation. (HB2857 HD1)<br><b>Chair's inclination: Pass As Is.</b> | MAT, JHW |

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| <p>HB 2535<br/>SD1<br/>(SSCR3116)</p>      | <p>RELATING TO OFFENSES AGAINST PROPERTY RIGHTS.<br/>Amends offense of use of a computer in the commission of a separate crime by including use of a computer to obtain control over the property of the victim or to facilitate commission of the offense of theft in the first or second degrees. (SD1)<br/><b>Chair's inclination: SD2</b> – Amend in accordance with the testimony submitted by the Prosecuting Attorney to clarify that the intentional use of a computer to obtain control over the property of a victim only applies to the offenses of theft in the first or second degree.</p>  | <p>MAT/CPH,<br/>JHW</p> |
| <p>HB 1871<br/>HD1, SD1<br/>(SSCR3119)</p> | <p>RELATING TO CONSUMER CREDIT REPORTING AGENCIES.<br/>Allows consumers who are victims of identity theft to place a security freeze on their credit reports which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization and will provide consumers more control over who has access to their credit report. (SD1)<br/><b>Chair's inclination: Defer to Monday, April 3, 2006 at 9:00 am in CR 229</b></p>   | <p>CPH/MAT,<br/>JHW</p> |
| <p>HB 2050<br/>HD2, SD1<br/>(SSCR3026)</p> | <p>RELATING TO INTERNATIONAL MATCHMAKING.<br/>Adds abuse orders of protection issued against a Hawaii resident as information that must be disclosed by a Hawaii resident as part of the resident's marital history information in dealings with international matchmaking organizations. (SD1)<br/><b>Chair's inclination: Pass As Is.</b></p>  | <p>EIA, JHW</p>         |
| <p>HB 2885<br/>HD2<br/>(SSCR3037)</p>      | <p>RELATING TO ADULT ENTERTAINMENT PRODUCTS.<br/>Requires that a business selling adult entertainment products obscure them from view from off the premises. Requires that adult entertainment products be segregated and obscured from view from portions of the premises where other products are sold. (HB2885 HD2)<br/><b>Chair's inclination: Pass As Is.</b></p>   | <p>BED, JHW</p>         |
| <p>HB 3126<br/>(SSCR2972)</p>              | <p>RELATING TO RAPID IDENTIFICATION DOCUMENTS.<br/>Amends the rapid identification documents law by deleting the requirement that the document be in the form of a bracelet. Allows a lawfully appointed guardian, agent, or surrogate to act on a patient's behalf when directing medical staff to provide comfort care only.<br/><b>Chair's inclination: Pass As Is.</b> The Committee report will note that this bill requires the patient's guardian, agent, or surrogate to direct health care providers consistent with HRS Chapter 327E to administer comfort care only in an emergency situation. More importantly, this bill requires the Department of Health to adopt rules in implementing the rapid identification document system, which would be the appropriate mechanism to address additional safeguards or requirements to be imposed upon a patient's guardian, agent, or surrogate.</p> | <p>HTH, JHW</p>         |

HB 2192 RELATING TO CONTROLLED SUBSTANCES. HTH, JHW  
 HD2, SD1 Clarifies requirements for emergency call-in Schedule II prescriptions, the use of  
 (SSCR3082) facsimile and telephonic prescriptions, and the use of narcotics to treat addiction. Allows  
 the use of central fill pharmacies and limited information sharing. Adds new definitions.  
 (SD1)  
**Chair's inclination: SD2** – Amend in accordance with the testimony submitted by the  
 Department of Public Safety to conform the bill with existing language in federal law and  
 make technical, non-substantive amendments.

HB 2410 RELATING TO CONTROLLED SUBSTANCES. HTH, JHW  
 HD1, SD1 Amends statutory provisions to conform with changes to the Uniform Controlled  
 (SSCR3074) Substances Act enacted in 2005. (SD1)  
**Chair's inclination: SD2** – Technical, non-substantive amendments.

HB 1242 RELATING TO SECTION 453-16, HAWAII REVISED STATUTES. HTH, JHW  
 HD1 Prohibits the State from denying or interfering with a female's right to choose or obtain an  
 (SSCR3073) abortion of a nonviable fetus or an abortion necessary to protect the female's life or health.  
 Repeals residency requirement for abortions. Permits abortions to be performed in clinics  
 and physician's offices. (HB1242 HD1)  
**Chair's inclination: Pass As Is.** The Committee Report will emphasize that this measure  
 is intended to codify existing law. The bill deletes the 90-day residency requirement in  
 accordance with Supreme Court decisions that struck down "durational" residency  
 requirements in violation of the 14<sup>th</sup> Amendment's privileges and immunities clause. The  
 bill also conforms the hospital requirement to current constitutional case law, which  
 doesn't allow states to enact a hospital requirement during the early stages of pregnancy.  
 The concerns expressed related to medical requirements may be more appropriately  
 addressed in rules that could be promulgated by the Department of Health. Finally, the  
 Chair notes that most of the testimony in opposition to this measure expressed opposition  
 to abortion, which is already codified in the statute.

**The following measures were previously heard on Wednesday, March 29 at 2:45 p.m.:**

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| Bill NO. | Description  | Referral |
| SCR 148  | URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK  | WLA/JHW, |
| SR 93    | WITH THE SAMUEL MILLS DAMON ESTATE TRUSTEES, MOANALUA<br>GARDENS FOUNDATION, THE TRUST FOR PUBLIC LANDS, THE NATURE<br>CONSERVANCY, AND OFFICE OF HAWAIIAN AFFAIRS TO PURCHASE THE<br>MOANALUA GARDENS.<br><b>Chair's inclination: Pass As Is.</b> | WAM      |

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| SCR 23 | REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO   | JHW/WLA |
| SR 10  | DEDICATE A BERTHING AREA IN EACH COUNTY WHERE NON-PROFIT<br>ORGANIZATIONS CAN MOOR THEIR VOYAGING CANOES.<br><b>Chair's inclination: SD1</b> – Amend to give flexibility to the Counties to dedicate berthing<br>areas in each county. |         |

SCR 125  
SR 75

REQUESTING THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF AGRICULTURE TO CONDUCT A FEASIBILITY STUDY ON SELLING THE LAND COMPRISING THE OAHU COMMUNITY CORRECTIONAL FACILITY ON KAMEHAMEHA HIGHWAY AND MOVING TO THE SITE OF THE ANIMAL QUARANTINE CENTER IN HALAWA OR ADJACENT STATE LAND NEAR THE CURRENT HALAWA CORRECTIONAL FACILITY.

**Chair's inclination: Pass As Is.**

JHW/WLA

SCR 22  
SR 9

REQUESTING THAT THE DEPARTMENT OF HAWAIIAN HOME LANDS ADVOCATE FOR THE PROTECTION OF MOLOKAI SURFACE AND GROUND WATER FOR HAWAIIAN HOMESTEADERS.

**Chair's inclination: Hold**

JHW/WLA