STAND. COM. REP. NO. 820

Honolulu, Hawaii

MAR 0 2 2007

RE: S.B. No. 1339

S.D. 1

Honorable Colleen Hanabusa President of the Senate Twenty-Fourth State Legislature Regular Session of 2007 State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 1339 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII RULES OF EVIDENCE,"

begs leave to report as follows:

The purpose of this measure is to amend the Rules of Evidence to allow individuals, corporations, and government entities to apologize to persons who have been harmed, without having their benevolent gestures or statements be used as evidence of negligence in a civil law suit.

Your Committee received testimony in support of this measure from the Attorney General. The Consumer Lawyers of Hawaii (CLH) opposed this measure. The Judiciary's Standing Committee on the Rules of Evidence (Standing Committee) testified in support of the intent, and proposed a revision.

CLH expressed concern that "apology" implies acknowledgment of fault, but "benevolent gesture" connotes good faith concern. The Standing Committee expressed concern that "apology" and "benevolent gesture" were not defined, and, mindful of S.B. No. 813 (2007) dealing with the admissibility of expressions of sympathy or benevolence by health care providers, urged your Committee to adopt a unified measure on this subject that applies equally to all persons and entities.

Your Committee finds that in circumstances where expression of sympathy may be key to healing feelings, this measure will encourage dispute resolution without litigation.

Your Committee has amended this measure by inserting the language proposed by the Standing Committee.

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. 1339, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1339, 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-Fourth Legislature State of Hawaii

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	/ Resolution No.:* Committee Referral:		Date:		
SB 1339 31		J L		2/27/07	
The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)		V			
KOKUBUN, Russell S. (VC)					
INOUYE, Lorraine R.		<u> </u>			
NISHIHARA, Clarence K.		/			
GABBARD, Mike		V	***************************************		
TOTAL		Н			l
Recommendation:	Adopted	Adopted Not Adopted			
Chair's or Designee's Signature: Clarence K Wishikara					
Distribution: Original Yellow Pink File with Committee Report Clerk's Office Drafting Agency					

*Only one measure per Record of Votes