

STAND. COM. REP. NO. 464

Honolulu, Hawaii

FEB 20 2015

RE: S.B. No. 760  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 760 entitled:

"A BILL FOR AN ACT RELATING TO SERVICE ANIMALS,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a  
misdemeanor for knowingly and fraudulently representing oneself as  
the owner or trainer of a service dog.

Your Committee received testimony in support of this measure  
from the Community Associations Institute, Associa Hawaii, Hawaii  
Fi-Do Service Dogs, and four individuals. Your Committee received  
testimony in opposition to this measure from the Hawaii Civil  
Rights Commission. Your Committee received comments on this  
measure from the Department of the Attorney General; Disability  
and Communication Access Board, Department of Health; Hawaii  
Disability Rights Center; Pacific Pet Alliance; and one  
individual.

Your Committee finds that the abuse of privileges and  
allowances intended only for the benefit of persons with  
disabilities to use trained service dogs has become apparent and  
pervasive in many contexts. The result of this situation is that  
public health may be compromised, and legitimate, trained service  
dogs may experience unnecessary distraction while persons with  
disabilities may experience unnecessary inconvenience and  
distress.



Your Committee notes that this measure is limited to the context of service dogs as defined in section 347-2.5, Hawaii Revised Statutes (HRS), and does not explicitly extend to so-called "emotional support animals" or other assistance animals that may serve lawful purposes in certain contexts, for example under the federal Fair Housing Act. It is not the intention of your Committee that this measure be construed in any way to abridge the rights of any person under any existing federal or state law. However, your Committee further notes that section 11-50-74(o)(1), Hawaii Administrative Rules, does generally prohibit any live animals other than service animals (as similarly defined in section 347-2.5, HRS) in food establishments.

Your Committee acknowledges the concerns raised in written testimony that enforcement of this measure may be difficult. Nonetheless, your Committee notes that a similar statutory prohibition in California was upheld in federal court. Accordingly, similar to the situation in which persons who willfully misuse disability parking privileges are subject to punishment, this measure establishes a statutory means to deter pervasive detrimental misrepresentations.

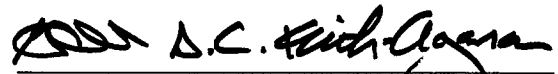
Your Committee has amended this measure by:

- (1) Clarifying the definition of "owner" to mean any person who owns an alleged service dog or who is authorized by the dog's owner to use the dog;
- (2) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (3) 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. 760, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 760, S.D. 1, and be referred to the Committee on Ways and Means.



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.:* <div style="text-align: center; font-size: 1.2em;">SB760</div>	Committee Referral: <div style="text-align: center; font-size: 1.2em;">JDL, WAM</div>	Date: <div style="text-align: center; font-size: 1.2em;">2/17/15</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div><input type="checkbox"/> Pass, unamended 2312</div> <div><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div><input type="checkbox"/> Hold 2310</div> <div><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
ESPERO, Will	/			
GABBARD, Mike	/			
IHARA, Jr., Les	/			
THIELEN, Laura H.	/			
SLOM, Sam	/			
TOTAL	7			
Recommendation: <input checked="" type="checkbox"/> Adopted <span style="margin-left: 100px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature:				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div><b>Distribution:</b></div> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

\*Only one measure per Record of Votes