SHAN S. TSUTSUI Lt. Governor



SCOTT E. ENRIGHT Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER Deputy to the Chairperson

State of Hawaii **DEPARTMENT OF AGRICULTURE** 1428 South King Street Honolulu, Hawaii 96814-2512 Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SCOTT E. ENRIGHT CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

March 14, 2016 10:00 A.M. CONFERENCE ROOM 325

SENATE BILL NO. 2802, SENATE DRAFT 1 RELATING TO HUNTING ON PRIVATE LANDS

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2802 SD1 which requires hunters to first obtain written permission from the landowner or occupier or holder under such landowner before entering private property. The written permission may be in the form of an "expression of permission conveyed and stored by electronic means". This measure also ensures that traditional and customary rights set forth in the State Constitution are upheld. The Department supports this administration bill.

Agricultural theft and agricultural vandalism have been a constant problem for Hawaii's farmers, increasing the cost of production and preventing farming operations to be successful. The vast farming land area throughout Hawaii and limited number of law enforcement officers make it difficult to capture perpetrators. This measure does not prohibit hunting on private lands. It will ensure greater safety and peace of mind for landowners who are often agriculturalists to control access to their properties.



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Should a landowner choose to allow their "written permission" to be in the form of an "expression of permission conveyed and stored by electronic means", it will be the responsibility of the landowner to ensure its authenticity.

Thank you for the opportunity to submit our testimony.



P.O. Box 253, Kunia, Hawai'i 96759 Phone: (808) 848-2074; Fax: (808) 848-1921 e-mail info@hfbf.org; www.hfbf.org

March 14, 2016

HEARING BEFORE THE HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON SB 2802, SD1 RELATING TO HUNTING ON PRIVATE LANDS

Room 325 10:00 AM

Aloha Chair Yamane, Vice Chair Culen, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau strongly supports SB 2802, SD1, requiring hunters to obtain written permission from landowners or occupiers or holders of private lands to hunt on those lands.

This bill does NOT in any way prohibit hunting on private lands. What it does do is separate the legitimate hunter from the criminal trespasser.

This bill is necessary because the current situation is extremely dangerous for both the landowner and the hunter. Over the last several years, incidents of livestock slaughtering, theft, vandalism, crop destruction, and poaching have become commonplace on farms and ranches on every island. These illegal activities must be stopped; however, the current laws relating to hunting are confusing and not easily enforced. Criminals have learned that there is no practical enforcement of the laws to prevent armed thieves and vandals from trespassing, stealing, and destroying other's livelihoods. If caught, these miscreants claim to be hunters and state that they had verbal permission to be on the property.

The burden should never be on the rancher or farmer to prove that he *did not* give permission to a gun-wielding trespasser to access his property.

Without knowing the intent of an armed trespasser on his property, a farmer or rancher may reasonably believe that the trespasser is there to steal his equipment, his livestock, or his crops. He may even think that his home and family are threatened and this could lead him to take steps to protect them. This scenario is just too dangerous for both a legitimate hunter and the farmer, and it can be avoided by the simple act of obtaining prior permission, in writing, so there is no confusion or misunderstanding.

A legitimate, law-abiding hunter would have no justification to object to this measure since he is already required by law to have permission from the landowner.

For many years, the Hawaii Farm Bureau has worked with police, prosecutors, and the Department of Land and Natural Resources to find a solution to trespass, theft, and vandalism problems. We respectfully request that this committee pass SB 2802, SD1 to clarify and help enforcement of the current laws that ALREADY prohibit trespass and prohibit hunting without permission. Please don't let another year go by without addressing the concerns of our farmers and ranchers. We sincerely believe that this can be done without penalizing legitimate hunters.

Thank you very much for your support of Hawaii's farmers and ranchers.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON WATER & LAND Rep. Ryan I. Yamane, Chair Rep. Ty J.K. Cullen, Vice Chair

DATE:	Monday, March 14, 2016
TIME:	10:00 ÅM
PLACE:	Conference Room 325

SB 2802, SD1 – RELATING TO HUNTING ON PRIVATE LANDS.

Requires hunters to obtain written permission from landowners or occupiers or holders of private lands to hunt on private lands. Effective July 1, 2016.

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 140+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council strongly <u>supports</u> SB 2802, SD1 in requiring written permission to hunt as the current laws regarding trespassing are ineffective in protecting the rights of property owners in Hawaii.

We appreciate the hunters that do the right thing and know that there are a few bad apples that spoil the bunch. Hunters and ranchers should work hand-in-hand in stewarding the land and legitimate hunters respect the combined duty to protecting and promoting good practices to ensure the future of the land for both recreation and industry.

This issue has become a major problem for ranchers across the state. Many ranchers feel the effects from the actions of careless and irresponsible hunters. These include the loss of cattle due to indiscriminate hunters, loss of cattle due to hunting dogs that have been left by their owners, cut fences, damage to infrastructure, vandalism and damage to farm infrastructure and theft of private property.

Ranchers often experience stretches of fence that have been cut or laid down to allow the careless hunters easier access to the rancher's property. Up to 800 feet of fence in one stretch has been found destroyed by the actions of these trespassers. At times these pastures can contain cattle or other livestock and the trespassers actions produce an access point for the livestock to get out. This can lead to other unintended consequences including an animal loose on the roadway or onto a neighboring residential property and could lead to a threat to the animal's safety and that of the public safety.



Many hunters in Hawaii use hunting dogs to track and take down wild game. In some cases, the hunter is unable to find their dogs at the end of the day and decide to leave them. These hunting dogs often join the feral dog population and since they have been trained to track and take down game, cattle and baby calves are often attacked and killed. This can be particularly costly for the rancher as the value of an average cow/calf pair is around \$2,500. Ranchers have also discovered cattle that have been killed by indiscriminate hunters and trespassers.

Damages to infrastructure can also be very costly. Many ranchers utilize gravity flow water systems with flexible pipe to serve remote water troughs for their cattle. Some ranchers have discovered these flexible pipes broken by trespassers, causing great expense to fix these issues. Our ranchers have also experienced theft of private property including gas cans, chains, spotlights, or anything that they can be easily removed. Ranchers and farmers have installed large and elaborate locking systems to secure their private property and protect themselves from theft and vandalism. Also, gates have been pulled down and boulders that were placed to prevent access have been removed hours after being installed.

Careless hunters have found that the penalties for trespassing carry little penalty and are difficult to prove. The burden of establishing the right to hunt should be placed on the hunter, not on the rancher. The simple act of gaining written permission to access the land could prevent many of these issues.

Our ranchers have good relationships with responsible hunters who get written permission and they have been helpful in assisting the police in finding those hunters who aren't responsible. If a hunter has verbal permission from the landowner, then securing written permission should not be difficult to obtain.

We ask this committee to pass this SB 2802, SD1 as this measure should help both enforcement of current trespassing law and prevent hunting without written permission.

Thank you for giving me the opportunity to testify on this important matter.

From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 14, 2016 4:34 AM
То:	waltestimony
Cc:	afrancokaupo@gmail.com
Subject:	*Submitted testimony for SB2802 on Mar 14, 2016 10:00AM*

Submitted on: 3/14/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Franco	Maui Cattle Company	Support	No

Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 13, 2016 8:17 PM
То:	waltestimony
Cc:	gottlieb@hawaii.rr.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/13/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch	Support	No

Comments: We strongly support this measure to require that proof of permission to be hunting on Private Land be in writing, or by electronic means.

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From:	mailinglist@capitol.hawaii.gov
Sent:	Friday, March 11, 2016 4:50 PM
То:	waltestimony
Cc:	cathyg@animalrightshawaii.org
Subject:	*Submitted testimony for SB2802 on Mar 14, 2016 10:00AM*

Submitted on: 3/11/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Goeggel	Animal Rights Hawai'i	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 13, 2016 9:54 PM
То:	waltestimony
Cc:	ayeh@hawaii.rr.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/13/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Aileen K . F. Yeh	Individual	Support	No

Comments: We have suffered losses of livestock from hunting dogs killing or mutilating calves. These animals may be missing ears, parts of their nostrils, and chunks from their limbs. I have photos of damage. Hunters have cut our fences, left gates open, stolen security cameras, and put a dead pig in our water trough. They have driven trucks and atvs through our pastures. More severe penalties need to be adopted for criminal trespass, and yes, I support a requirement for written permission. I also suggest that their guns be taken away if they are trespassing if caught, and especially if they do not have hunting licenses or are felons with firearms.

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From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 13, 2016 8:12 PM
То:	waltestimony
Cc:	diamondbranchhi@aol.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/13/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brendan Balthazar	Individual	Support	No

Comments: I strongly support. This will finally give us ranchers something to stop the e legal shooting and hunting on our ranches. And help control the damage done to livestock by hunting dogs and indiscriminate shooting.

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From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 13, 2016 7:31 PM
То:	waltestimony
Cc:	gregf@haleakalaranch.com
Subject:	*Submitted testimony for SB2802 on Mar 14, 2016 10:00AM*

Submitted on: 3/13/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gregory Friel	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Sunday, March 13, 2016 7:16 PM
То:	waltestimony
Cc:	olumauangus@msn.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/13/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert H. Ferreira	Individual	Support	No

Comments: I believe this bill would help ranchers and farmers tremendously. And better yet it will enhance safety for all. Please get this bill passed

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From:	mailinglist@capitol.hawaii.gov
Sent:	Saturday, March 12, 2016 7:24 AM
То:	waltestimony
Cc:	wwmsteiner@gmail.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/12/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William W. Steiner	Individual	Comments Only	No

Comments: Greetings Committee Chairs and members: I am in favor of SB 2802 with the exceptions that the bill should take effect within 3 years and it should contain a paragraph that native gatherers and trails should not be encumbered by it. Thank you for the opportunity to testify. W. Steiner

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From:	mailinglist@capitol.hawaii.gov
Sent:	Saturday, March 12, 2016 12:45 AM
То:	waltestimony
Cc:	hawaiifishingfanatic@gmail.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/12/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Oppose	Yes

Comments: In full opposition to this legislation as it does not include language that was contested in the recent case, State of Hawai'i v. Kui Palama. It certainly is aimed at removing the constitutionally protected right of Native Hawaiians to exercise their traditional and customary practice to hunt in areas that have been utilized for generations. By passing this legislation, the Committee would effectively be voting against the constitutional rights afforded to Native Hawaiians. I urge the Committee to oppose. Mahalo piha.

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SB2802 SD1 RELATING TO HUNTING ON PRIVATE LAND

House Committee on Water & Land

March 14, 2016	10:00 a.m.	Room 325
	10.00 d.m.	R0011 323

The Office of Hawaiian Affairs (OHA) **<u>OPPOSES</u>** SB2802 SD1, which will require hunters to obtain written permission from landowners, occupiers, or holders of private lands to hunt on those lands.

Many Native Hawaiians currently engage in hunting for subsistence and other purposes as a traditional and customary practice. The Hawai'i Constitution, Supreme Court, and this Legislature consistently protect the perpetuation of these practices as a living component of the Hawaiian culture. However, while Native Hawaiians may reasonably engage in such practices on less-than-fully-developed lands notwithstanding certain trespassing and other laws, the written permission requirement of this bill may unduly burden practitioners who wish to do so, while also complying with statutory provisions.

Hunting remains an important cultural and subsistence practice for many Native Hawaiians, particularly in rural regions. For example, a report issued by the Governor's Moloka'i Subsistence Task Force found that Hawaiian families on Moloka'i continue to rely heavily upon subsistence to supplement meager incomes, deriving 38% of their food from these activities. These practices rely primarily upon wildlife game that is abundant on privately owned land because the game on public lands is too scarce to be hunted. This report revealed that subsistence activities, including hunting, were also critical to the persistence of Hawaiian cultural customs and values. Updated data from 2014 found that Native Hawaiians on Moloka'i continue to share the sentiment that subsistence is "very important" for their families' livelihood.

OHA appreciates this bill's apparent desire to protect the property rights of private landowners. However, <u>the written permission requirement of this bill may create</u> <u>substantial burdens for practitioners who wish to both engage in cultural hunting</u> <u>practices, while also avoiding the risk of arrest.</u> For example, as much as 90% of Hawaii's private lands are owned by 10-12 large landowners (Proceedings of the Constitutional Convention of Hawai'i of 1978), whose explicit, written permission may be much more difficult to obtain than an implicit or verbal agreement. Large landowners who may otherwise wish to permit or even promote hunting on their lands may also be discouraged from doing so, by the inconvenience or liability inherent in a written permission requirement. Thus, while the Constitution broadly protects traditional and customary hunting activities, practitioners who are not able to obtain the written permission of landowners or occupiers could experience a chilling effect, as they would bear the burden of proving their rights to enforcement agents and prosecutors who may not understand the complex legal authority protecting their practices.

OHA appreciates the Senate Committee on Judiciary and Labor's recognition that this measure may prevent Native Hawaiians from engaging in their protected traditional and customary gathering constitutional rights. However, the non-codified amendments made in section 3 of SB2802 SD1 will not necessarily mitigate the chilling effect on individual practitioners hunting on private lands, who may still be facially subject to arrest, and who would still bear the burden of proving their rights in court, if they are unable to obtain the written permission this bill requires.

In light of these concerns, OHA urges the Committee to **HOLD** SB2802 SD1. Mahalo for the opportunity to testify on this measure.



From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 14, 2016 9:00 AM
То:	waltestimony
Cc:	mail@kealiaranch.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/14/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Moore	Kealia Ranch	Support	No

Comments: I strongly support this bill as the manager of 12,000 acres of lease and fee land. We require permitted hunters to sign a permission slip/waiver, and I believe that it should be required, so that there is some means to validate the persons present on private lands. All to often tresspassers come up with some "story" about why they are there, and unless the person questioning has forehand knowledge, they might get away with it. This is a sure means to validate their story. Thank you.

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March 14, 2016

Hawaii State Legislature

RE: SB2082 SD1

This letter is written in strong support of SB2082 SD1. Agricultural lands are precious in the State of Hawaii. The hard work of our farmers and ranchers and their contribution to the overall good of Hawaii's residents and its visitors is very hard to over state. Our ranchers and farmers provide produce for our tables, and export goods that are highly valued around the world. As a community we need to take whatever reasonable actions we can to protect and encourage those who work our lands.

Over the years and at what seems like an increasing pace a number of hunters have shown increased disrespect for our farmers, ranchers and for our land itself. Many come onto these lands with dogs; some with rifles and others fire arms. A large number come in under the cover of darkness. Still others boldly enter these lands on ATV's even during the light of day. Their very presence is a type of robbery as they take for themselves the property rights owned by others.

Those hunters who come in without permission have destroyed crops, have destroyed infrastructure, have scared and mutilated cattle. Many carelessly chase cattle through fences destroying those fences and leaving the rancher to find their cattle, repair their fences and relocate their herds. In some cases animal carcasses of cattle and of prey are left to rot. Crops are trampled under, soft trees (i.e. papaya) are knocked over and made useless. It is not a stretch to believe that many of these same careless and uninvited hunters, once they have a lay of the land return to steal produce and farm equipment.

In recent years trespassing laws have been strengthened to discourage this activity. While these laws have helped, more is needed if we are to protect our agricultural lands. This law is a step in the direction that we need. Having written proof of a hunters permission to hunt on private agricultural land allows those who own or lease the land to carefully select who, if anyone, can hunter there. Some are likely to be allowed as they work hand in hand with farmers and ranchers to eradicate feral animals. Those who are not so selected will clearly not have permission to be on the land. This will help all of us.

We ask you to kindly support this legislation, SB2802 SD1, when it comes before you. Thank you for your attention to this.

Sincerely. "nd)

Bill Walter President

16-523 Keaau-Pahoa Road Keaau, HI 96749 tel.: 808.966.9325 • fax: 808.966.8522 www.whshipman.com Page 1



From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 14, 2016 6:34 AM
То:	waltestimony
Cc:	jimmygomes@hawaii.rr.com
Subject:	*Submitted testimony for SB2802 on Mar 14, 2016 10:00AM*

Submitted on: 3/14/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jimmy Gomes	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 14, 2016 7:25 AM
То:	waltestimony
Cc:	sabrina@ponoholo.com
Subject:	*Submitted testimony for SB2802 on Mar 14, 2016 10:00AM*

Submitted on: 3/14/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sabrina White	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov	
Sent:	Monday, March 14, 2016 8:54 AM	
То:	waltestimony	
Cc:	pono@ponoholo.com	
Subject:	*Submitted testimony for SB2802 on Mar 14, 2016	10:00AM*

Submitted on: 3/14/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Harry von Holt	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Monday, March 14, 2016 9:15 AM
То:	waltestimony
Cc:	jacinthow001@hawaii.rr.com
Subject:	Submitted testimony for SB2802 on Mar 14, 2016 10:00AM

Submitted on: 3/14/2016 Testimony for WAL on Mar 14, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William jacintho	Individual	Support	No

Comments: I support the bill and Hawaii Cattlemen's councils testimony

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