

STAND. COM. REP. NO. 427

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 241
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Public Safety, Intergovernmental, and
Military Affairs, to which was referred S.B. No. 241 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit the denial of emergency shelter by public establishments;
- (2) Provide compensation to owners of public establishments for repair damages caused by persons sheltered;
- (3) Protect public establishments and their agents and employees from liability when providing emergency shelter; and
- (4) Clarify that remuneration or expectation of remuneration paid to owners of private property for goods or services other than emergency access to land, shelter, or subsistence, including services or incidental commodities to the emergency access, does not void the exemption from civil liability afforded to these owners except where owners increase the sale price of the service or incidental commodities.



Your Committee received testimony in support of this measure from the Hawaii Emergency Management Agency, Hawaii Medical Service Association, Retail Merchants of Hawaii, and O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i. Your Committee received testimony in opposition to this measure from the Maui Chamber of Commerce and Hawaii Association for Justice.

Your Committee further finds that the false alert of an inbound ballistic missile on January 13, 2018, raised several issues related to a private property owner providing emergency access to land, shelter, or subsistence to the public. In many cases, private entities may have been reluctant to make facilities or property available to a person for use as a shelter because of liability concerns. Your Committee finds that as this is the Aloha State, a well-balanced mechanism is needed whereby public establishment owners must allow people to take shelter at their establishments during emergencies but will be compensated for any costs incurred to repair any damages caused by those people and protected against liability when providing shelter.

Your Committee further finds that existing state law provides civil liability protection to private property owners who provide emergency access to land, shelter, or subsistence during a disaster without remuneration or expectation of remuneration. The January 2018 false missile alert also raised the issue that this protection may not apply to certain businesses because those sheltering there were paying guests or tenants. This measure clarifies that if a private property owner who, while providing emergency access to land, shelter, or subsistence without remuneration or expectation of remuneration, receives remuneration for providing sheltered persons with services or incidental commodities without price markups, the liability protection is neither diminished nor void.

Your Committee has amended this measure by:

- (1) Specifying that, in the case of an emergency alert, public establishments are required, to the extent reasonably practicable and compliant with law, to shelter persons inside or in the immediate vicinity of the public establishment during the public establishment's normal business hours; and



- (2) 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 Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 241, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental, and Military
Affairs,

Clarence K. Nishihara

CLARENCE K. NISHIHARA, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

Bill / Resolution No.:* SB 241	Committee Referral: PSM, JDC/WAM	Date: 2/7/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
HARIMOTO, Breene	✓			
FEVELLA, Kurt				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes