

Honolulu, Hawaii

**MAR 18 2026**RE: H.B. No. 389  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Third State Legislature  
Regular Session of 2026  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred H.B. No. 389, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO UNCREWED AIRCRAFT OFFENSES,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the applicable felony offenses for using an uncrewed aircraft in the furtherance of the commission of a felony.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that criminal drone use is an emerging threat in the United States. Under existing law, it is a class C felony to use a drone to commit a felony. However, under the *State v. Modica* rule, when two crimes have exactly the same elements, but different sentences, the more lenient penalty applies, creating a loophole. For example, it is a class B felony to commit second-degree assault with the use of a drone. Because second-degree assault is a felony and using a drone to commit a felony is a class C offense, the lesser penalty would control. This measure will close this loophole to assist the prosecution of felonies committed with a drone.



Your Committee has amended this measure by inserting language to specify that a conviction and sentence for felony offenses for using an uncrewed aircraft in the furtherance of the commission of a felony shall be in addition to and not in lieu of any conviction and sentence for a separate felony; provided that the sentence imposed may run concurrently or consecutively with the separate felony.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 389, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 389, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Transportation,

  
LORRAINE R. INOUE, Chair



The Senate  
 Thirty-Third Legislature  
 State of Hawai'i

Record of Votes  
 Committee on Transportation  
 TRS

Bill / Resolution No.:* <b>HB 389, HD1</b>	Committee Referral: <b>TRS, JDC</b>	Date: <b>3/12/26</b>
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The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
KANUHA, Dru Mamo				✓
LEE, Chris				✓
DECORTE, Samantha	✓			
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>

Recommendation:    
 Adopted    
 Not Adopted

Chair's or Designee's Signature:  


Distribution:    
           Original                      Yellow                      Pink  
           File with Committee Report     Committee             Drafting Agency

\*Only one measure per Record of Votes