



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 2128, S.D. 2, RELATING TO TRESPASS.

BEFORE THE:

HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

DATE: Wednesday, March 25, 2026 **TIME:** 9:15 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mark S. Tom, Deputy Attorney General

Chair Chun and Members of the Committee:

The Department of the Attorney General (Department) submits the following comments and suggested amendments.

The purpose of this bill is to increase penalties for the offense of hunting on private lands under section 183D-26, Hawaii Revised Statutes (HRS), and to authorize forfeiture of firearms or motor vehicles used in connection with the offense. The Department recommends addressing these issues by amending the penalty statute in section 183D-5, HRS, rather than amending the substantive offense in section 183D-26, HRS. Amending section 183D-5 will better ensure consistency within chapter 183D and avoid unintended conflicts with existing penalty provisions enacted in 2025.

1. Restore section 183D-26 to the misdemeanor penalty schedule in section 183D-5(b).

Section 183D-26, HRS, has historically been included among the misdemeanor offenses sentenced under section 183D-5(b), HRS, with mandatory fines that increase for repeat offenses within a five-year period. However, section 183D-26 is not currently listed in section 183D-5(b), HRS, following amendments made by Act 235, Session Laws of Hawaii 2025 (Act 235). To ensure that violations of section 183D-26 are clearly treated as misdemeanor offenses under chapter 183D's established penalty framework, the Department recommends amending section 183D-5(b), HRS, as follows:

(b) Any person violating section 183D-25.5, **183D-26**, 183D-32, 183D-62, 183D-64, or 183D-66 shall be guilty of a misdemeanor, and upon conviction thereof

2. Clarify forfeiture authority for section 183D-26 offenses occurring on non-agricultural private land.

Act 235 already authorizes forfeiture under chapter 712A for violations of section 183D-26 or 183D-27 occurring on agricultural land and establishes a specific felony sentencing structure for those offenses. If the Committee intends forfeiture authority to apply to section 183D-26 violations occurring on private, **non-agricultural** lands, that intent would be more clearly achieved through a conforming amendment to section 183D-5, HRS. Amending section 183D-26 directly may create inconsistencies with the existing penalty framework in section 183D-5, HRS, including the felony sentencing provisions applicable to offenses occurring on agricultural land. Accordingly, the Department recommends supplementing the end of section 183D-5(b), as follows:

. . . provided that any violation of section 183D-26 or 183D-27 that occurs on agricultural land shall be sentenced pursuant to subsection (d)[-]; and provided further that, regardless of whether the offense occurs on agricultural land, all animal parts, products, or items containing prohibited animal parts or products involved in the commission of an offense under section 183D-26 shall be considered contraband to be forfeited to and disposed of by the State; provided further that, regardless of whether the offense occurs on agricultural land, any property used in the commission of an offense under section 183D-26, or that facilitated or assisted in the offense, including firearms, hunting animals, or vehicles, shall be subject to forfeiture under chapter 712A.

To implement the amendments described above, the Department respectfully recommends that section 1 of the bill be deleted in its entirety and replaced with the following:

SECTION 1. Section 183D-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

(b) Any person violating section 183D-25.5, **183D-26**, 183D-32, 183D-62, 183D-64, or 183D-66 shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced as follows:

(1) For a first conviction, by a mandatory fine of not less than \$200, or by imprisonment of not more than one year, or both and all animal parts, products, or items containing prohibited animal parts or products involved

in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State;

- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$2,000, or by imprisonment of not more than one year, or both, and all firearms, animal parts, products, or items containing prohibited animal parts or products used in the commission of the violations shall be considered contraband to be forfeited to and disposed of by the State;

provided that any violation of section 183D-26 or 183D-27 that occurs on agricultural land shall be sentenced pursuant to subsection (d) [-]; and provided further that, regardless of whether the offense occurs on agricultural land, all animal parts, products, or items containing prohibited animal parts or products involved in the commission of an offense under section 183D-26 shall be considered contraband to be forfeited to and disposed of by the State; provided further that, regardless of whether the offense occurs on agricultural land, any property used in the commission of an offense under section 183D-26, or that facilitated or assisted in the offense, including firearms, hunting animals, or vehicles, shall be subject to forfeiture under chapter 712A.

Thank you for the opportunity to comment on this bill.



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

**TESTIMONY IN OPPOSITION OF SENATE BILL 2128 SD2
RELATING TO TRESPASS**

Ke Kōmike Hale o ka ‘Oihana Mahi‘ai a me ka ‘Ōnaehana Mea‘ai
(House Committee on Agriculture & Food Systems)

Ke Kapitala ‘o Hawai‘i
(Hawai‘i State Capitol)

Malaki 25, 2026

9:15 AM

Lumi 325

Aloha e Chair Chun, Vice Chair Kusch, and Members of the Committee on Agriculture and Food Systems:

The Office of Hawaiian Affairs (OHA) respectfully **OPPOSES SB2128 SD2**, which would require the forfeiture to the State of any firearm or motor vehicle possessed and used by a person who hunts on private land without the permission of the landowner or occupier, pursuant to Chapter 712A, Hawai‘i Revised Statutes (HRS).

The Office of Hawaiian Affairs is the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians.¹ Among its statutory duties, OHA is required to assess the policies and practices of other agencies impacting Native Hawaiians and conduct advocacy efforts on their behalf.² In fulfilling these mandates, OHA regularly intervenes when proposals may have a potential negative impact on Native Hawaiian traditional and customary practices, including subsistence hunting and gathering rights protected under Article XII, section 7 of the Hawai‘i Constitution and HRS § 1-1. Accordingly, OHA is in opposition to this bill due to the significant implications for the exercise of those rights.

OHA does not support unlawful hunting on private land, and we respectfully acknowledge this bill’s intent to deter unlawful hunting on private agricultural lands and recognize that unauthorized hunting can create safety concerns and liability issues for

¹ Haw. Const. Art. XII § 5.

² HRS § 10-3.

landowners. However, it is unclear why this bill extends penalties to all private lands, when severe penalties, inclusive of those suggested here, already exist for hunting violations on private agricultural lands under HRS § 183D-5(d).

As drafted, this bill broadly extends the scope of forfeiture penalties to all private lands and risks imposing disproportionate penalties on individuals lawfully exercising constitutionally protected Native Hawaiian traditional and customary gathering rights. In many remote areas, large private properties are not clearly marked or fenced, and boundary lines may not be readily apparent on the ground. Imposing mandatory forfeiture in situations where property boundaries are unclear is an unduly harsh consequence. We respectfully urge the Legislature to consider less burdensome deterrent measures that do not inadvertently impair protected rights.

Article XII, section 7 of the Hawai‘i Constitution provides that the State shall protect “all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes” by Native Hawaiians. HRS § 1-1 similarly preserves Hawaiian usage and customs that are not inconsistent with state law. These provisions collectively safeguard the right of qualified Native Hawaiians to engage in traditional and customary practices, including gathering and subsistence hunting, even on undeveloped private lands.³

In criminal cases, such as trespass or other hunting-related offenses, Native Hawaiian traditional and customary rights are raised and evaluated at the adjudication stage as an affirmative defense. The individual bears the burden of demonstrating that the activity constituted a constitutionally protected traditional and customary practice exercised in a reasonable manner under the circumstances.⁴ As a result, practitioners may be subject to citation or arrest before their rights are formally recognized.

At issue in this bill, under HRS § 712A-6(c), law enforcement officers may seize property subject to forfeiture without court process upon a showing of probable cause. This means that a vehicle or firearm could be seized immediately upon citation or arrest, before any judicial determination of whether the individual’s conduct was constitutionally protected.

For Native Hawaiian practitioners who rely on their vehicles for essential everyday needs like employment and family obligations, the loss of a vehicle, even temporarily, can impose severe economic hardship. An individual lawfully exercising protected rights could

³ These rights have been repeatedly affirmed by the Supreme Court. *See Pele Def. Fund v. Paty*, 73 Haw. 578 (1992); *Pub. Access Shoreline Haw. v. Haw. Cnty. Planning Comm’n* (PASH), 79 Hawai‘i 425 (1995).

⁴ *State v. Hanapi*, 89 Hawai‘i 177 (1998).

be deprived of essential property for months while awaiting resolution. Such a burden risks chilling the exercise of constitutionally protected gathering and subsistence practices.

The Hawai‘i Supreme Court has consistently held that Native Hawaiian traditional and customary rights may be subject to reasonable regulation, but not extinguishment or unreasonable interference.⁵ A mandatory forfeiture regime that may apply automatically upon alleged unauthorized hunting—without regard to whether the individual is asserting constitutionally protected rights—raises serious concerns of overbreadth and disproportionate impact.

For the reasons stated above, OHA respectfully urges this committee to **DEFER SB2128 SD1**.

Mahalo nui for the opportunity to testify on this critical issue.

⁵ See e.g., *PASH*, 79 Hawai‘i at 450–451.

SB-2128-SD-2

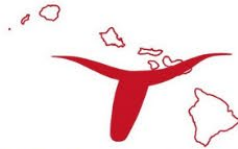
Submitted on: 3/23/2026 10:34:04 AM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristin Mack Almasin	Ulupalakua Ranch	Support	Written Testimony Only

Comments:

We support SB 2128 SD2. Trespassing and poaching has become increasingly worse without enforcement and consequences. The seizure of firearms or vehicles is a good method of attaching real consequences to disregard of the law without overburdening the prison systems. We spend a lot of time and effort dealing with poachers and trespassers, only to see them repeating the same behavior because of a lack of real punishment.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

SB2128 SD2
RELATING TO TRESPASS

Friday, February 27, 2026, 10:30 AM
Conference Room 016 & Videoconference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

The Hawaii Cattlemen's Council **supports SB2128 SD2** which provides that any firearm or motor vehicle possessed and used by a person who hunts on private land without the permission of the owner or occupier of the land shall be forfeited to the State in accordance with chapter 712A, HRS.

Trespassing and poaching is rampant on ranches. When permission is not obtained from the land owner, this causes a safety hazard for the families that manage these areas as well as for the livestock. We are grateful for the resources dedicated to the Department of Law Enforcement to address agricultural crimes, but ranchers will continue to contend with poachers until there are substantial consequences put into place. Forfeiture of firearms and vehicles used to hunt without permission is a substantial penalty that we believe will deter criminal behavior, if enforced and prosecuted fully.

We appreciate the opportunity to testify on this measure. The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four county-level Cattlemen's Associations. Ranchers produce a high-quality protein and are the stewards of almost 750 thousand acres of land in Hawaii, or nearly 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director





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March 25, 2026

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

TESTIMONY ON SB 2128, SD2
RELATING TO TRESPASS

Conference Room 325 & Videoconference
9:15 AM

Aloha Chair Chun, Vice-Chair Kusch, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 2128, SD2, which provides that any firearm or motor vehicle possessed and used by a person who hunts on private land without the permission of the owner or occupier of the land may be forfeited to the State.

Unpermitted hunting and trespassing on private agricultural lands remain serious and ongoing problems for farmers and ranchers across the State. These incidents endanger landowners, farm workers, families, and hunters themselves, and often result in damaged fences, destroyed crops, injured or killed livestock, theft, and vandalism.

SB 2128, SD2 strengthens deterrence by allowing for the forfeiture of firearms or motor vehicles used in illegal hunting on private land, upon a sworn complaint by the landowner. This approach targets repeat and intentional violators while reinforcing the basic principle that private property rights must be respected.

We appreciate that the measure allows judicial discretion for a first offense; however, we respectfully encourage the Committee to ensure that any alternative fine remains sufficiently strong to serve as a meaningful deterrent. Illegal hunting and trespassing on agricultural lands result in real economic losses, safety risks, and property damage, and penalties should reflect the seriousness of those impacts.

The burden should never fall on farmers or ranchers to prove they did not give permission to a trespasser. In real-world situations, landowners encountering armed individuals on their property cannot easily determine intent and may reasonably fear for their safety,

their livelihood, or their families. This creates unnecessary and dangerous situations that can and should be prevented.

Law-abiding hunters who obtain proper permission have nothing to fear from this measure. SB 2128, SD2 does not change the requirement to secure permission to hunt on private land; it strengthens enforcement and provides meaningful consequences for those who knowingly violate the law.

Farmers and ranchers have worked with, and continue to work with, the Legislature and law enforcement to address trespass, theft, and illegal hunting. SB 2128, SD2 is a reasonable and necessary step to improve compliance, enhance safety, and protect agricultural operations.

Thank you for the opportunity to provide testimony and for your attention to the safety and property rights of Hawai'i's agricultural community.

SB-2128-SD-2

Submitted on: 3/20/2026 6:22:24 PM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Randy Cabral	Individual	Support	Written Testimony Only

Comments:

Strong support

SB-2128-SD-2

Submitted on: 3/21/2026 8:12:09 AM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2128 SB RELATING TO TRESPASS.

CRIME OCCURING IN MAKAHA VALLEY ON BOARD OF WATER SUPPLY
PROPERTY

SB-2128-SD-2

Submitted on: 3/22/2026 8:44:12 PM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jason Moniz	Individual	Support	Written Testimony Only

Comments:

Testifying in support of the deterrence this Bill provides against trespass and illegal hunting which have been shown to be able to escalate to dangerous levels when the perpetrator is in possession of firearms. Our farmers and ranchers are faced with these crimes routinely in rural and remote areas that in many cases cannot be provided with quick police assistance. Therefore, strong deterrence is important to reduce these crimes and potentially dangerous escalations.

SB-2128-SD-2

Submitted on: 3/22/2026 9:53:25 PM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael A. Cobb Jr	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. A simple mistake or wandering off the path could cost you your personal property. Not all rural property has clear boundries.

SB-2128-SD-2

Submitted on: 3/23/2026 10:25:20 AM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jimmy Gomes	Individual	Support	Written Testimony Only

Comments:

I support this bill

SB-2128-SD-2

Submitted on: 3/23/2026 10:30:23 AM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jay Franzone	Individual	Support	In Person

Comments:

Aloha, Chair - Members of the Committee -- SB2128 is about something simple: respect.

If land doesn't belong to you, you shouldn't hunt on it without permission. Most people understand that. Most hunters follow the rules. This bill just makes clear that when someone chooses to ignore those rules, there are real consequences.

For families who live on rural land, for ranchers, and so many on neighbor islands, this isn't an abstract issue. Property rights matter, and so does basic courtesy. This measure reinforces that respect for private land and for one another is not optional. Mahalo for your time

LATE

SB-2128-SD-2

Submitted on: 3/24/2026 10:12:49 AM

Testimony for AGR on 3/25/2026 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
William Jacintho	Individual	Support	Written Testimony Only

Comments:

VERY VERY STRONG SUPPORT

Livestock have also been taken live, and that should be considered, because it wasn't done with a firearm.

Also regarding "firearms": **Crossbows, Bow & arrows, Air guns, etc., are not considered "firearms"**, and yet, they cause the same ability for a poacher to aim, fire, and kill livestock. **Felons use and get away with these weapons in place of said firearms, in order to save themselves from higher arrest charges.** I believe these weapons should be looked into and considered to be placed on the "firearm" list, due to the velocity of the product. At the same time, **these weapons are much more quieter to do the crime and not draw attention to the crime.**

Thank you for working on this important Legislation

William Jacintho