

STAND. COM. REP. NO. 1147

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 1355
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Economic Revitalization & Business, to which was referred S.B. No. 1355, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is to facilitate the collection of interstate sales taxes by:

- (1) Adopting amendments to state tax laws to allow the State to participate in the national Streamlined Sales and Use Tax Agreement, to take effect when the State becomes a party to the Streamlined Sales and Use Tax Agreement; and
- (2) Creating a committee to oversee the Department of Taxation's implementation and administration of and compliance with the Streamlined Sales and Use Tax Agreement.

The Hawaii Association of REALTORS and Retail Merchants of Hawaii testified in support of this measure. The Department of Taxation and Tax Foundation of Hawaii provided comments.

Your Committee finds that a primary goal of this measure is to address growing inequities between local retailers that are required to collect general excise taxes and online retailers that

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are not. An increasing number of consumers are choosing to buy from online retailers to save money by not paying the general excise tax. The resulting decrease in general excise tax revenues hurts not only the state budget and funding for government services but also the local economy as Hawaii retailers are steadily losing business to out-of-state companies.

Your Committee has amended this measure by replacing its entire contents with the provisions of H.B. No. 1183, H.D. 2 (2011), which implement an alternative approach to collecting the general excise tax from out-of-state purchases. As amended, this measure imposes the general excise tax on out-of-state businesses that sell tangible personal property to Hawaii residents by:

- (1) Establishing for general excise tax purposes a nexus between the State and out-of-state businesses that:
 - (A) Engage in or solicit business with persons within the State; and
 - (B) Earn income, gross proceeds, gross rental, or gross rental proceeds from sources in the State;
- (2) Requiring out-of-state businesses that conduct business in the State, but do not collect the general excise tax, to file an annual statement with the Department of Taxation regarding sales of tangible personal property to Hawaii residents, thereby relieving the business of the duty to collect general excise taxes on those sales. A similar filing requirement is imposed upon in-state businesses that are not otherwise required to collect the general excise tax on those sales; and
- (3) Amending the definition of engaging in business for general excise tax purposes to include the sale of tangible personal property by a person soliciting business through an independent contractor or other representative, if the person enters into an agreement with a Hawaii resident who refers potential customers for a commission or other consideration.

Your Committee has further amended this measure by inserting the provision of H.B. No. 805 (2011), which repeals the income tax exemption for income derived from stock options or stock from a qualified high technology business. Your Committee finds that the State can no longer afford the cost of this tax exemption.



Your Committee has also changed the effective date of this measure to July 1, 2112, to encourage further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization & Business that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1355, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1355, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization & Business,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Economic Revitalization & Business

Bill/Resolution No.: <u>SSCR 723</u> <u>SB 1355 SD1</u>	Committee Referral: <u>ERB, FIN</u>	Date: <u>3/22/11</u>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	/			
2. CHOY, Isaac W. (VC)	/			
3. AWANA, Karen L.	/			
4. BROWER, Tom				✓
5. EVANS, Cindy	/			
6. HASHEM, Mark J.	/			
7. NISHIMOTO, Scott Y.	/			
8. TOKIOKA, James Kunane	/			
9. TSUJI, Clift	/			
10. MARUMOTO, Barbara C.		✓		
11. PINE, Kymberly Marcos		✓		
TOTAL (11)	8	2	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small style="margin-left: 100px;">committee acronym(s)</small>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				