

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2341

S.D. 2

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Tourism, to which was referred S.B. No. 2341, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LAND USE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize activities or uses for short-term rentals of thirty-one days or less in agricultural districts for any one stay within a county; provided that the appropriate county has adopted an ordinance that specifically authorizes such use;
- (2) Repeal the language in section 205-5, Hawaii Revised Statutes, that prohibits agricultural tourism activities in the absence of bona fide farming operations; and
- (3) Repeal the language that prohibits a county from adopting ordinances that set forth requirements and restrictions for overnight accommodations connected with a farming operation in an agricultural district.

Your Committee received testimony in support of this measure from the Windward Ahupuaa Alliance and seven individuals. Your Committee received testimony in opposition to this measure from the Office of Planning; Department of Planning and Permitting, City and County of Honolulu; a member of the Kauai County Council; Sierra Club Hawaii Chapter; Keep it Kailua; and one individual.



Your Committee received comments on this measure from the Department of Agriculture and Hawaii Farm Bureau Federation.

Your Committee has heard support for the concept of allowing farming operations to supplement their farm revenues or labor needs by providing overnight accommodations for farm tour participants or working farm stays. This will benefit the farmer and is consistent with state policies and efforts to promote agriculture, increase agricultural viability and markets for farmers, and maintain agricultural use of agricultural lands.

Your Committee has also considered concerns that this measure may create further problems in regulating transient vacation rentals in the agricultural district, and that repealing the prohibition on agricultural tourism activities in the absence of bona fide farming operations may be detrimental to the intent of this measure.

Your Committee believes that only permitting overnight accommodations of twenty-one days or less will ensure that month-to-month rentals are not inadvertently allowed under this measure.

With regard to the repeal of the language in section 205-5, Hawaii Revised Statutes, that prohibits agricultural tourism activities in the absence of bona fide farming operations, your Committee finds that the language is being repealed because it is unnecessary, as the statute requires each county to adopt ordinances setting forth procedures and requirements for the review and permitting of agricultural tourism uses and activities as an accessory use on a working farm, or farming operation as defined in section 165-2, Hawaii Revised Statutes. The definition of "farming operation" is comprehensive and far more specific than the somewhat imprecise reference to a bona fide farming operation, and provides clear guidance to the counties in the adoption of ordinances. In addition, your Committee finds that the final determination regarding these activities is best made by the counties, and has retained the repeal of the language.

Your Committee has amended this measure accordingly, by:

- (1) Clarifying that agricultural tourism activities, including overnight accommodations of twenty-one days or less, are permitted in an agricultural district for any one stay within a county; provided that the activities are permitted only if the county has adopted ordinances

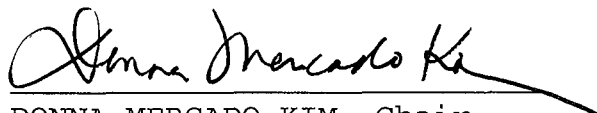


regulating agricultural tourism under section 205-5,  
Hawaii Revised Statutes;

- (2) Inserting an effective date of July 1, 2050, to ensure further discussion; and
- (3) 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 Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2341, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2341, S.D. 2.

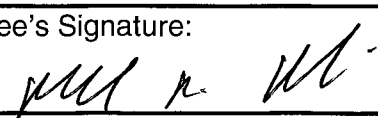
Respectfully submitted on  
behalf of the members of the  
Committee on Tourism,

  
DONNA MERCADO KIM, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Tourism**  
**TSM**

Bill / Resolution No.:* <b>SB 2341 SDI</b>	Committee Referral: <b>AGL/WLH, TSM</b>	Date: <b>3-1-12</b>		
<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				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
KIM, Donna Mercado (C)	✓			
KOUCHI, Ronald D. (VC)	✓			
GALUTERIA, Brickwood	✓			
KAHELE, Gilbert	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>5</b>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;">  </div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

**\*Only one measure per Record of Votes**