

STAND. COM. REP. NO.

1073

Honolulu, Hawaii

March 3, 2017

RE: H.B. No. 790  
H.D. 2

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 790, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION,"

begs leave to report as follows:

The purpose of this measure is to protect the State's environment and residents from the unintended impacts of large-scale pesticide use by:

- (1) Making the reporting guidelines of the Kauai Agricultural Good Neighbor Program mandatory for large-scale, outdoor commercial agricultural operations across the State; and
- (2) Establishing disclosure and public notification requirements for outdoor applications of restricted use pesticides in, as well as in proximity to, schools, healthcare facilities, childcare and eldercare facilities, and other sensitive areas in instances where the annual purchase or use of the pesticide exceeds an amount of 10 pounds or 10 gallons.

Americans for Democratic Action, 'Ai Pohaku, Birth Sovereignty, Democratic Party of Hawaii, Hawaii Center for Food Safety, Hawaii Nurses Association OPEIU Local 50, GMO Free Kaua'i,

HB790 HD2 HSCR CPC HMS 2017-2837



Hawaii Alliance for Progressive Action, IMUAlliance, Young Progressives Demanding Action-Hawaii, We Are One, Inc. - www.WeAreOne.cc- WAO, and numerous concerned individuals testified in support of this measure. The Chamber of Commerce Hawaii, Croplife America, Dupont Pioneer, Hawaii Crop Improvement Association, Hawaii Farm Bureau, Hawaii Cattlemen's Council, Larry Jefts Farms, LLC, Ponoholo Ranch Limited, Hawaii Farmers & Ranchers United, Monsanto Hawaii, and numerous concerned individuals testified in opposition to this measure. The Department of Agriculture, a member of the Kauai County Council, and A'a Li'i Farm provided comments.

Your Committee finds that in order to obtain a true picture of the impact that certain chemicals contained in pesticides and insecticides have on Hawaii's fragile environment and the health risks they may pose to the residents of our State, particularly our keiki and kupuna, there is a need to establish a system of disclosure. Of particular note, your Committee finds that without a system of disclosure, as has been done in other jurisdictions such as California, it is nearly impossible to test for, and ascertain evidence of, chemical exposure for humans as the medical tests for exposure to these chemicals are extremely specific.

Your Committee also finds that the State currently does not have an adequate regulatory structure in place to monitor the health impacts of pesticide drift near sensitive populations, particularly our keiki. Your Committee also heard testimony that pesticides that are currently classified as restricted use pesticides, such as chlorpyrifos, have definitely been linked to developmental delays in children and that other toxic exposure to pesticides during fetal, neonatal, and infant life disrupt critical development processes. Your Committee especially notes the testimony of Dr. Lee Esplian, who spoke at length about concerns regarding the effects of chronic low level exposure of children to pesticides in Hawaii and the inability to determine specific causal relationships between symptoms and pesticide exposure because disclosure of pesticide use in Hawaii is not required. Dr. Esplian further noted that the American Academy of Pediatrics has recommended that pesticide use disclosure be reported and suggested that it might be a better approach to expand the requirements contained in this measure to all pesticide use.



Finally, your Committee notes that during testimony, the concern was raised that the limitation to restricted use pesticides contained in this measure may be thwarted by actions by the Environmental Protection Agency of the Trump administration under new EPA Director Scott Pruitt who has moved to reclassify chlorpyrifos and other restricted use pesticides as nonrestricted. Because of this concern, as well as the mounting evidence that neonicotinoids and imidacloprids, as well as pyrethroids, may pose a significant health risk, naming the disclosure of the use of pesticide chemicals by name will protect Hawaii from the actions of the Pruitt-led EPA and ensures this law will continue to protect consumers in Hawaii despite any federal action.

Your Committee has amended this measure by:

- (1) Making the mandatory disclosure and notification requirements for outdoor application applicable to:
  - (A) Specified pesticides; and
  - (B) All persons or commercial agriculture entities purchasing or using restricted pesticides or insecticides in excess of 10 pounds or 10 gallons in a calendar year;
- (2) Clarifying the term "outdoor application" to include structural or termite application of pesticides;
- (3) Clarifying that institutions of higher education are included in the notification and disclosure requirements;
- (4) Clarifying individuals that are required to be notified of the outdoor application of pesticides or insecticides;
- (5) Requiring the Department of Agriculture to include insecticides and insecticide use in their annual public reports;
- (6) Extending the length of time any injured citizen may bring an action to enjoin a violation of pesticide or insecticide disclosure and notification requirements from sixty to ninety days;



- (7) Clarifying that the counties and other political subdivisions may enact more stringent ordinances;
- (8) Changing its effective date from January 28, 2081, to upon its approval; and
- (9) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 790, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 790, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



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ANGUS L.K. McKELVEY, Chair



