

STAND. COM. REP. NO.

2153

Honolulu, Hawaii

FEB 09 2018

RE: S.B. No. 2890
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committees on Judiciary and Commerce, Consumer Protection, and Health, to which was referred S.B. No. 2890 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the general excise tax law by adding a definition for "marketplace provider"; and
- (2) Provide that a person with no physical presence in the State shall be considered to be engaged in business in the State if, in any year, the person has gross receipts attributable to transactions in the State totaling \$100,000 or more.

Your Committees received testimony in support of this measure from the Retail Merchants of Hawaii, thirteen local business owners, and one individual. Your Committees received comments on this measure from the Department of the Attorney General, Department of Taxation, Tax Foundation of Hawaii, and Chamber of Commerce Hawaii.

Your Committees find that internet-based businesses located outside of Hawaii that sell goods and services to persons located



in the State are frequently exempt from the general excise tax. This puts local businesses at a significant competitive disadvantage and harms the economy of the State. This measure will ensure that internet-based businesses who generate sufficient income from the business of Hawaii's residents are taxed on that income by the State.

Your Committees have heard testimony expressing concerns that this measure is ambiguous as to whether it applies only to the internet-based seller of goods and services or to the third-party "marketplace provider" as well as the seller. Your Committees find that this issue raises concerns that merit further consideration and requests that your Committee on Ways and Means further examine this concern raised by the testifiers on this measure.

Your Committees have amended this measure by:

- (1) Providing that a person shall be considered to be engaged in business in the State if the person has gross receipts attributable to transactions in the State totaling \$100,000 or more in the current or immediately preceding calendar year instead of any year; and
- (2) Inserting an effective date of July 1, 2035, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Judiciary and Commerce, Consumer Protection, and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2890, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2890, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Commerce, Consumer Protection,
and Health,

Rosalyn H. Baker

ROSALYN H. BAKER, Chair

Brian T. Taniguchi

BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 2890	Committee Referral: JDC/CPH, WAM	Date: 2/7/18		
<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				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

