

STAND. COM. REP. NO.

**2815**

Honolulu, Hawaii

**MAR 02 2018**

RE: S.B. No. 2890  
S.D. 2

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

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2890, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to improve the collection of the general excise tax.

More specifically, this measure:

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

Your Committee received written comments in support of this measure from the Department of Taxation, Chamber of Commerce Hawaii, Dripton LLC, and Kiva Health Brands LLC.



Your Committee received written comments on this measure from the Department of the Attorney General, Elizabeth Mott LLC, Hanalei Company, and Tax Foundation of Hawaii.

Your Committee finds that local businesses are required to collect and remit the general excise tax on goods and services sold to consumers in Hawaii. However, businesses located outside the State are not required to collect this tax when they sell goods to Hawaii residents, which places local businesses at a disadvantage by effectively making goods sold by local businesses more expensive. Your Committee believes that this measure will foster fairness in competition by ensuring that businesses located outside the State who generate sufficient income from the business of Hawaii's residents are taxed by the State on that income.

Your Committee has amended this measure by:

- (1) Clarifying that a person who sells or assists in the sale of tangible personal property, on behalf of another seller, and who provides customer service, processes payments, and controls the fulfillment process is the seller of the property for general excise tax and use tax purposes;
- (2) Clarifying when a representative is not considered a seller for general excise tax purposes;
- (3) Clarifying what constitutes the import of tangible personal property for use tax purposes; and
- (4) Changing the effective date from July 1, 2035, to upon approval.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2890, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2890, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,



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DONOVAN M. DELA CRUZ, Chair



