

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 3095
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 Agriculture and Environment and Commerce,
Consumer Protection, and Health, to which was referred S.B.
No. 3095 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to protect the
State's children, elderly, and vulnerable individuals from the
unintended impacts of large-scale agricultural 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;
- (2) Establishing disclosure and public notification
requirements for outdoor applications of pesticides in,
as well as in proximity to, schools, healthcare
facilities, childcare and eldercare facilities, and
other sensitive areas; and
- (3) Establishing a pilot program for vegetative buffer
zones, as recommended by the Joint Fact Finding Study
Group, around selected schools within the State.



Your Committees received testimony in support of this measure from the Department of Education; Beyond Pesticides; Hawai'i Center for Food Safety; Pacific Biodiesel Technologies; Hawai'i Children's Action Network; Sierra Club of Hawai'i; Hawaii State Teachers Association; Civic Education Council; IMUAlliance; Americans for Democratic Action Hawaii; Pono Hawai'i Initiative; Hawaii Farmers Union United Waianae Coast; O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; Hawaii Alliance for Progressive Action; Hawaii Nurses Association; Kihei Community Association; 'Ohana o Kaua'i; Kokua Hawaii Foundation; Ka Ohana O Na Pua; Haiku Aina Permaculture Initiative; GMO Free Kaua'i; StressFreeSouls; Kalaheo Yoga; EcoTipping Points Project; We Are One, Inc.; Kuaiwi Farm; Respiratory and Environmental Disabilities Association of Hawaii; Young Progressives Demanding Action; Carbon Drawdown Solution; and two hundred eighty-seven individuals. Your Committees received testimony in opposition to this measure from the Department of Agriculture; Hawai'i Farm Bureau; Monsanto Hawaii; Alexander & Baldwin; Hawaii Crop Improvement Association; Western Plant Health Association; CropLife America; Larry Jefts Farms, LLC; Hawaii Cattlemen's Council, Inc.; and Maui County Farm Bureau.

Your Committees find that the County of Kauai passed Ordinance 960, relating to pesticides and genetically modified organisms, in 2013, which was overturned in federal court in 2014. The ordinance contained a provision to create a Joint Fact Finding Group to help address key environmental and public health questions related to large-scale commercial agriculture entities using pesticides and genetically modified organisms on the island of Kauai. When the ordinance was struck down by the court, the Department of Agriculture and the Kauai County Office of the Mayor contracted an independent public policy group, The ACCORD 3.0 Network, to facilitate the Joint Fact Finding Group project. The group was charged with gathering accurate information on the lands used by the seed companies and Kauai Coffee, their pesticide usage, and evidence of any possible adverse health and environmental impacts. The Joint Fact Finding Group issued its findings and recommendations on May 25, 2016, in a report titled, *Pesticide Use by Large Agribusinesses on Kaua'i*, in which it made recommendations to expand the Kauai Good Neighbor Program and establish a consistent buffer zone policy and use "green screens".



Your Committees further find that many residents in the State are very concerned about the long-term health effects and potential impacts of pesticide drift, especially as the number of large-scale, outdoor, commercial agricultural operations in the State continues to increase. Your Committees support efforts to increase common sense regulation of pesticide use in the State and are aware that pesticide use is necessary for the modern-day farmer to keep pests at bay. Your Committees do not wish to impede farmers who are working hard to increase local food production; however, your Committees believe that protecting Hawaii's youth in highly sensitive areas, like schools, from the potential negative effects of long-term pesticide is of the utmost importance.

Your Committees have amended this measure by:

- (1) Deleting language that would have made the reporting guidelines of the Kauai agricultural good neighbor program mandatory for large-scale, outdoor commercial agricultural operations across the State;
- (2) Deleting language that would have established disclosure and public notification requirements for outdoor applications of pesticides in proximity to sensitive areas;
- (3) Deleting unnecessary definitions;
- (4) Expanding the pilot program for vegetative buffers around schools to include ten schools within close proximity to one or more candidate pilot farms, to be designated within six months of the effective date; prohibiting the outdoor application of only restricted use pesticides, rather than all pesticides, within a buffer zone; and making various conforming or related amendments, including:
 - (A) Defining "candidate pilot farm" as any commercial agricultural entity that the Department of Agriculture (Department) determines to be among the top five agricultural users of restricted use pesticides on each of the islands of Oahu, Kauai, Maui, Hawaii, and Molokai;



- (B) Replacing references to "commercial agricultural entity" with "pilot farm";
 - (C) Requiring the Department to establish minimum distances from the ten designated schools within which a candidate pilot farm shall not apply restricted use pesticides;
 - (D) Requiring continuous vegetative buffer zones to be maintained by the pilot farm for at least one year, or the duration of the pilot program, whichever is longer;
 - (E) Requiring the Department to issue a single use exemption if it determines that the pest situation poses an immediate threat to the vegetation growing within the vegetative buffer zone or severe loss to the pilot farm; and
 - (F) Requiring that, for issuance of a single use exemption, acceptable measures will be implemented to minimize the potential for pesticide drift from the application;
- (5) Deleting language that would have provided for penalties and citizen suits;
 - (6) Deleting language that would have given authority to regulate pesticide disclosure, notification, and use, including the establishment of buffer zones against pesticides by local government;
 - (7) Deleting references to rule making;
 - (8) Inserting language to require the Department to develop and implement a pesticide drift monitoring study to evaluate pesticide drift at three schools in the vegetative buffer zones pilot program and report its findings to the Legislature no later than twenty days prior to the convening of the Regular Session of 2020;



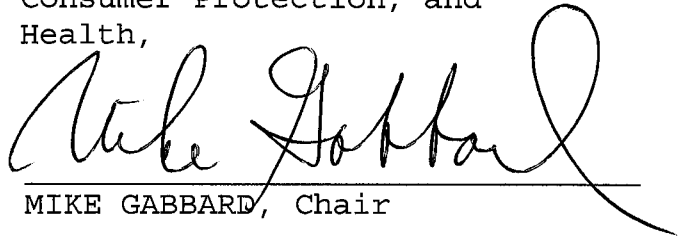
- (9) Appropriating funds for the pesticide drift monitoring study;
- (10) Amending section 1 to reflect its amended purpose;
- (11) Changing the effective date to July 1, 2018; and
- (12) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Agriculture and Environment 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. 3095, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3095, S.D. 1, and be referred to your Committees on Education and Ways and Means.

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



ROSALYN H. BAKER, Chair




MIKE GABBARD, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Agriculture and Environment
AEN

Bill / Resolution No.:* <i>SB 3095</i>	Committee Referral: <i>AEN/CPH, EDU/WAM</i>	Date: <i>2/14/18</i>		
<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
GABBARD, Mike (C)	<i>X</i>			
RIVIERE, Gil (VC)	<i>X</i>			
NISHIHARA, Clarence K.				<i>X</i>
RHOADS, Karl	<i>X</i>			
RUDERMAN, Russell E.		<i>X</i>		
TOTAL	<i>3</i>	<i>1</i>	<i>0</i>	<i>1</i>
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

