

STAND. COM. REP. NO.

459

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 244
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Agriculture and Environment and Health, to which was referred S.B. No. 244 entitled:

"A BILL FOR AN ACT RELATING TO FOOD DONATION,"

beg leave to report as follows:

The purpose and intent of this measure is to expand liability protection for donors to include donation of expired food when the donor reasonably believes in good faith that the food remains fit for human consumption.

Your Committees received testimony in support of this measure from Hawai'i Primary Care Association, Hawai'i Pacific Health; Down to Earth Organic and Natural, Hawai'i Farm Bureau, and two individuals. Your Committees received testimony in opposition to this measure from the Department of Health. Your Committees received comments on this measure from Hawaii Association for Justice.

Your Committees find that more than ten percent of Hawaii residents are food insecure and receive food assistance through nonprofit organizations and governments. Approximately twenty-six percent of food grown in or imported to Hawaii is thrown away, amounting to approximately \$1,000,000,000 in annual food waste. Food production is a direct contributor to local and global climate change, as food production requires energy, fertilizer, irrigation, livestock feed, and other resources that contribute to



greenhouse gas emissions. Food waste entering landfills creates methane gas, a greenhouse gas that is eighty-four times more potent than carbon dioxide. Much of the wholesome surplus food in Hawaii is discarded instead of donated because of fear of liability. Therefore, this measure seeks to discourage food waste and encourage food donation to needy recipients through its clarification and expansion of liability protections for good-faith food donors and allowing the donation of expired food when the donor makes a good-faith judgment that the food is unspoiled.

Your Committees have heard the concerns of the Department of Health that the Department's Food Safety Specialist is responsible for conducting inspections at food establishments to prevent foodborne illness by the consuming public. While the Food Safety Specialist has the expertise and knowledge of food safety, this individual is not qualified to educate or provide legal counsel to anyone in the State. Therefore, the Department believes that it is not the appropriate agency to educate those in the food industry about food donation liability protections.

Your Committees have also heard testifier concerns about placing broad exceptions to liability to all forms of perishable or nonperishable food to determine if packaged and unpackaged food should be differentiated to provide a basic level of protection to the recipients in need. Your Committees find that this issue raises concerns that merit further consideration and requests that your Committee on Commerce and Consumer Protection further examine those issues and concerns raised by the testifiers on this measure.

Your Committees have amended this measure by:

- (1) Removing exceptions to liability for donors who donate food directly to the needy and for government entities;
- (2) Directing the Department of Health to educate potential donors on reasonable and safe food donation protocols; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

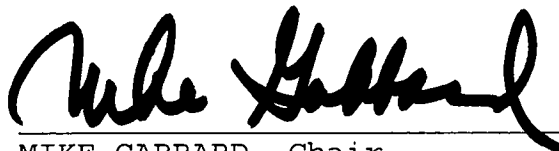


As affirmed by the records of votes of the members of your Committees on Agriculture and Environment and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 244, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 244, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

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



JARRETT KEOHOKALOLE, Chair

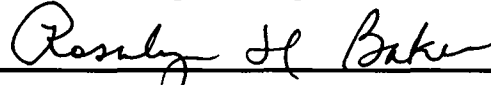


MIKE GABBARD, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

**Record of Votes
 Committee on Health
 HTH**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 244	AEN/HTH, CPN	2-12-2021		
<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
KEOHOKALOLE, Jarrett (C)	✓			
BAKER, Rosalyn (VC)	✓			
MORIWAKI, Sharon Y.				✓
SAN BUENAVENTURA, Joy A.	✓			
FEVELLA, Kurt	✓			
TOTAL	4	-	-	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