

STAND. COM. REP. NO.

655

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 778  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 778 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal Act 155, Session Laws of Hawaii 2010.

Your Committee received comments in support of this measure from the Chamber of Commerce of Hawaii; David M. Carr, CPA, Chair, Tax Committee of the Hawaii Society of Certified Public Accountants; and Lisa Maruyama, President and CEO, Hawaii Alliance of Nonprofit Organizations. Your Committee received comments on this measure from the Tax Foundation of Hawaii; Ray Kamikawa, Chun, Kerr, Dodd, Beaman and Wong; Katherine P. Lloyd, General Counsel and Vice President of Operations, Hawaii Community Foundation; and two individuals.

Your Committee finds that Act 155, Session Laws of Hawaii 2010, requires all businesses with excise tax exemptions to register to do business in Hawaii, file their tax returns in a timely manner, and expressly claim their entitlement. Act 155 also creates a personal trust liability for businesses that use the general excise tax as the basis for increasing their prices, and ensures that those funds are paid to the State for the benefit of consumers and businesses.



Your Committee also finds that, while well-intentioned, Act 155 severely penalizes taxpayers who inadvertently fail to file general excise tax returns, even if those taxpayers would not otherwise owe any tax. The taxpayers most likely to unintentionally violate the technical requirements of Act 155 are small businesses, individuals, and non-profit organizations, who are least likely to have access to sophisticated tax advice and are least able to bear the burden of such severe penalties. Your Committee further finds that the imposition of personal trust fund liability is inappropriate since the businesses affected are not holding the general excise tax in trust for other parties.

Your Committee has amended this measure by changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

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. 778, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 778, S.D. 1.

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



DAVID Y. IGE, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 778	EDT, WAM	3-1-11		
<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
IGE, David Y. (C)	/			
KIDANI, Michelle N. (VC)	/			
CHUN OAKLAND, Suzanne	/			
DELA CRUZ, Donovan M.				/
ENGLISH, J. Kalani	/			
ESPERO, Will	/			
FUKUNAGA, Carol	/			
KIM, Donna Mercado	/			
KAHELE, Gilbert				/
KOUCHI, Ronald D.				/
RYAN, Pohai	/			
TOKUDA, Jill N.	/			
WAKAI, Glenn	/			
SLOM, Sam	/			
<b>TOTAL</b>	11	0	0	3
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
<i>Michelle N. Kidani</i>				
<b>Distribution:</b>				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes