

Honolulu, Hawaii

FEB 18 2015

RE: S.B. No. 234  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which  
was referred S.B. No. 234 entitled:

"A BILL FOR AN ACT RELATING TO RETAIL EMPLOYMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a retail employer to pay a retail employee who works on a state holiday at a wage rate of three times the retail employee's regular wage rate; and
- (2) Prohibit a retail employer from taking retaliatory personnel action against a retail employee for electing not to work on a state holiday.

Your Committee received testimony in opposition to this measure from the Chamber of Commerce Hawaii; Hawaii Food Industry Association; Retail Merchants of Hawaii; ABC Stores; Society for Human Resource Management, Hawaii Chapter; National Federation of Independent Business - Hawaii; Times Supermarket; and five individuals. Your Committee received comments on this measure from the Department of Labor and Industrial Relations.

Your Committee finds that there has been a growing trend of some establishments beginning the holiday shopping season, which traditionally began the day after Thanksgiving, on Thanksgiving Day. Employees who are expected to work these extended hours on



holidays must do so while sacrificing time away from family and friends or other interests.

Your Committee has heard testimony that the wage rate requirement proposed by this measure would create an administrative burden for employers and employees. Your Committee understands these concerns and recognizes that businesses should be able to create schedules and policies that work for individual employees and specific businesses. However, your Committee also concludes that employees who elect not to work on a holiday traditionally reserved for family gatherings should not be subject to retaliatory personnel action by their employer. Amendments to this measure are therefore necessary.

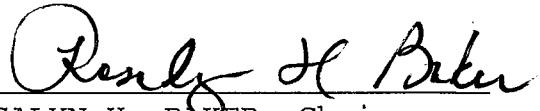
Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have established a new section under chapter 387, Hawaii Revised Statutes, relating to wages paid by retail employers to retail employees on state holidays and a retaliatory personnel action prohibition;
- (2) Specifying that it shall be unlawful for any employer to suspend, discharge, or discriminate against any of the employer's employees because an employee refused to work on a holiday that is traditionally reserved for family gatherings, such as Thanksgiving or Christmas, if scheduled to do so by the employer;
- (3) Updating the purpose section;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 234, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection,

A handwritten signature in cursive script, reading "Rosalyn H. Baker". The signature is written in black ink and is positioned above a horizontal line.

ROSALYN H. BAKER, Chair



**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

\*Only one measure per Record of Votes