Honolulu, Hawaii

FEB 2 8 2025

RE: S.B. No. 1287
        S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

     Your Committee on Commerce and Consumer Protection, to which
was referred S.B. No. 1287, S.D. 1, entitled:

     "A BILL FOR AN ACT RELATING TO TRANSPARENCY,"

begs leave to report as follows:

     The purpose and intent of this measure is to require a clear
and accessible notice of tip allocation in food, beverage, and
service establishments.

     Your Committee received testimony in support of this measure
from one individual.

     Your Committee received comments on this measure from the
Department of Commerce and Consumer Affairs and Department of
Labor and Industrial Relations.

     Your Committee finds that tip theft has been an ongoing
problem in the State. Because tips are generally distributed
between front and back-of-house employees by their employers
without disclosing how the tips are actually allocated, it is
often difficult to identify when tip theft occurs. This measure
provides a simple and effective solution to prevent employers from
engaging in tip theft by requiring employers to inform consumers
and employees who receive tips that it is unlawful for employers
to retain or withhold tips from their employees, as well as
information on where to report suspected violations. Your

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Committee further finds that this measure will increase public awareness of tip theft by providing resources to identify when tip theft occurs.

Your Committee also notes that, given that this measure is primarily intended to address the labor practices of employers toward their tipped employees, your Committee believes that this measure may be more appropriately designated as a new section under chapter 388, Hawaii Revised Statutes, which governs employee wages, rather than as a consumer protection statute under the Unfair and Deceptive Practices Act.

Accordingly, your Committee has amended this measure by:

(1) Codifying its provisions as a new section under chapter 388, Hawaii Revised Statutes, relating to wages of employees, rather than as a consumer protection statute under the Unfair and Deceptive Practices Act, chapter 481B, Hawaii Revised Statutes;

(2) Clarifying that back wages and penalties for back wages are available remedies for a violation of the notification requirements imposed on employers;

(3) Specifying that the appropriate remedy for a violation of the notification requirement is an award of back wages in the amount that an employee should have earned if all tips had been paid directly to the employee; and

(4) Making technical, nonsubstantive amendments 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. 1287, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1287, S.D. 2.

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

_____
JARRETT KEOHOKALOLE, Chair

The Senate
Thirty-Third Legislature
State of Hawaiʻi

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:
SB1287 SD1	LBT, CPN	2/25/25

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended 2312   ☑ Pass, with amendments 2311   ☐ Hold 2310   ☐ Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton	✓			
TOTAL	5			

Recommendation:

☑ Adopted   ☐ Not Adopted

Chair's or Designee's Signature:

Carol Fukunaga

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*Only <u>one</u> measure per Record of Votes

Revised: 12/09/24