A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	PART I
2	SECTION 1. The legislature finds that many merchants have
3	return policies that impose processing or administrative fees on
4	consumers to effectuate a warranty claim on damaged or defective
5	goods. However, the legislature concludes that a consumer who
6	purchases a damaged or defective product should be able to
7	return it for repair, replacement, or refund without having to
8	bear additional costs.
9	Accordingly, the purpose of this part is to prohibit a
10	merchant from charging a purchaser any fee, including a
11	processing fee or an administrative fee, to repair, replace, or
12	refund damaged or defective goods.
13	SECTION 2. Section 481B-5.5, Hawaii Revised Statutes, is
14	amended by amending subsection (1) to read as follows:
15	"(1) Any return [policies] policy adopted by the merchant
16	pursuant to this section that limits the purchaser's ability to
17	obtain a refund shall not apply if the goods were damaged or

H.B. NO. H.D. 1 S.D. 1

1	defective prior to the time of sale, unless the merchant was
2	aware of the damage or defect and notified the purchaser of the
3	damage or defect in writing prior to the time of sale. \underline{A}
4	merchant shall not charge a purchaser any fee, including a
5	processing fee or an administrative fee, to repair, replace, or
6	refund goods pursuant to this section."
7	PART II
8	SECTION 3. The legislature finds that consumers are often
9	confused or misled by offers a franchise makes in national
10	advertising campaigns. Furthermore, while an advertisement may
11	state than an offer is not available in Hawaii, this disclosure
12	is often in tiny print and does not sufficiently inform
13	consumers that the offer is unavailable.
14	Accordingly, the purpose of this part is to ensure that
15	consumers are sufficiently aware when an offer under a
16	franchise's advertising campaign is not available in Hawaii by:
17	(1) Requiring franchisees to disclose their non-
18	participation in advertising campaigns of the
19	franchise in which discounts or promotions are

offered; and

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H.B. NO. H.D. 1

1	(2) Prohibiting franchisors from limiting or restricting
2	these disclosures.
3	SECTION 4. Chapter 481B, Hawaii Revised Statutes, is
4	amended by adding a new section to be appropriately designated
5	and to read as follows:
6	"§481B- Advertising campaigns; non-participation. (a)
7	If a franchisee does not participate in a specific advertising
8	campaign of the franchise in which a discount or a promotion is
9	offered, the franchisee shall disclose its non-participation at
10	its entrance or storefront with signage of a size sufficient to
11	be clearly visible to the general public.
12	(b) No franchisor may impose a restriction or condition
13	upon the franchisee, whether by the terms of the franchise

16 PART III

disclosure under subsection (a)."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

agreement or by other device or practice, in making the required

20 SECTION 6. Statutory material to be repealed is bracketed 21 and stricken. New statutory material is underscored. 1 SECTION 7. This Act shall take effect upon its approval.

Report Title:

Merchandise; Returns; Unfair or Deceptive Trade Acts or Practices; Repair; Replacement; Refund; Franchisees; Franchisors; Advertising Campaigns; Non-participation

Description:

Part I: Prohibits a merchant from charging a purchaser any fee, including a processing fee or an administrative fee, to repair, replace, or refund damaged or defective goods. Part II: Requires franchisees to disclose their non-participation in advertising campaigns of the franchise in which discounts or promotions are offered. Prohibit franchisors from limiting or restricting the disclosures. (SD1)

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