H.B. NO. 371

A BILL FOR AN ACT

RELATING TO DECEPTIVE TRADE PRACTICES.

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

1   SECTION 1. The purpose of this Act is to clarify that any

2 seller of goods that offers free or reduced shipping to a

3 purchaser in any other state in the United States but who

4 discriminates against Hawaii residents by refusing to honor that

5 free or reduced shipping offer for items shipped to Hawaii has

6 engaged in an act that is unfair and deceptive as to Hawaii

7 consumers.

8   SECTION 2. Section 481A-3, Hawaii Revised Statutes, is

9 amended to read as follows:

10   "[[]§481A-3[]] **Deceptive trade practices.** (a) A person

11 engages in a deceptive trade practice when, in the course of the

12 person's business, vocation, or occupation, the person:

13   (1) Passes off goods or services as those of another;

14   (2) Causes likelihood of confusion or of misunderstanding

15   as to the source, sponsorship, approval, or

16   certification of goods or services;

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1   (3)   Causes likelihood of confusion or of misunderstanding

2   as to affiliation, connection, or association with, or

3   certification by, another;

4   (4)   Uses deceptive representations or designations of

5   geographic origin in connection with goods or

6   services;

7   (5)   Represents that goods or services have sponsorship,

8   approval, characteristics, ingredients, uses,

9   benefits, or quantities that they do not have or that

10   a person has a sponsorship, approval, status,

11   affiliation, or connection that the person does not

12   have;

13   (6)   Represents that goods are original or new if they are

14   deteriorated, altered, reconditioned, reclaimed, used,

15   or secondhand;

16   (7)   Represents that goods or services are of a particular

17   standard, quality, or grade, or that goods are of a

18   particular style or model, if they are of another;

19   (8)   Disparages the goods, services, or business of another

20   by false or misleading representation of fact;

1   (9)   Advertises goods or services with intent not to sell

2   them as advertised;

3   (10) Advertises goods or services with intent not to supply

4   reasonably expectable public demand, unless the

5   advertisement discloses a limitation of quantity;

6   (11) Makes false or misleading statements of fact

7   concerning the reasons for, existence of, or amounts

8   of price reductions; [or]

9   (12) Refuses to honor free or reduced rate shipping to a

10   consumer in this State that is marketed or advertised

11   to consumers in another state. This paragraph shall

12   not apply to goods whose shipping is deemed hazardous

13   or restricted as defined by the United States Postal

14   Service; or

15   [(12)] (13) Engages in any other conduct which similarly

16   creates a likelihood of confusion or of

17   misunderstanding.

18   (b)   In order to prevail in an action under this chapter, a

19   complainant need not prove competition between the parties or

20   actual confusion or misunderstanding.

1   (c)   This section does not affect unfair trade practices

2 otherwise actionable at common law or under other statutes of

3 this State.

4   (d)   Any consumer, class of consumers, or de facto class of

5 consumers who is or are injured by any act or practice forbidden

6 or declared unlawful under this section shall be entitled to the

7 remedies set forth under 480-13."

8   SECTION 3.   Statutory material to be repealed is bracketed

9 and stricken.   New statutory material is underscored.

10   SECTION 4.   This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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Report Title:
Deceptive Trade Practices; Free or Reduced Rate Shipping

Description:
Clarifies that any person that offers free or reduced rate
shipping to a consumer in another state but who refuses to honor
that shipping offer to a consumer in Hawaii has engaged in an
act that is unfair and deceptive under certain conditions.
Extends remedies.

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