

JAN 21 2022

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 legislature finds that products that are
2 marketed as being "for women" often cost more than virtually
3 identical products that are marketed as being "for men". A 2015
4 study by the New York City Department of Consumer Affairs found
5 that women's products cost an average of seven per cent more
6 than substantially similar men's products. The study found
7 that, over a lifetime, women are charged thousands of dollars
8 more based solely on gender-based marketing. The legislature
9 believes that this "pink tax" or "gender tax" is a deceptive
10 trade practice and a form of gender discrimination.

11 Accordingly, the purpose of this Act is to identify gender-
12 based pricing as a deceptive trade practice.

13 SECTION 2. Section 481A-2, Hawaii Revised Statutes, is
14 amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Substantially similar goods" means goods having no
17 substantial differences in the materials used, intended uses, or



1 functional designs and features. Differences in coloring among
2 consumer goods shall not constitute substantial differences for
3 purposes of this chapter.

4 "Substantially similar services" means services having no
5 substantial differences in the amount of time needed to provide
6 the services, difficulty in providing the services, or cost of
7 the services to the provider."

8 SECTION 3. Section 481A-3, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) A person engages in a deceptive trade practice when,
11 in the course of the person's business, vocation, or occupation,
12 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;

17 (3) Causes likelihood of confusion or of misunderstanding
18 as to affiliation, connection, or association with, or
19 certification by, another;



- 1 (4) Uses deceptive representations or designations of
2 geographic origin in connection with goods or
3 services;
- 4 (5) Represents that goods or services have sponsorship,
5 approval, characteristics, ingredients, uses,
6 benefits, or quantities that they do not have or that
7 a person has a sponsorship, approval, status,
8 affiliation, or connection that the person does not
9 have;
- 10 (6) Represents that goods are original or new if they are
11 deteriorated, altered, reconditioned, reclaimed, used,
12 or secondhand;
- 13 (7) Represents that goods or services are of a particular
14 standard, quality, or grade, or that goods are of a
15 particular style or model, if they are of another;
- 16 (8) Disparages the goods, services, or business of another
17 by false or misleading representation of fact;
- 18 (9) Advertises goods or services with intent not to sell
19 them as advertised;



(10) Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; [or]

(12) Prices the same or substantially similar goods or substantially similar services differently based on the gender of the individuals to whom the products are marketed or for whom the services are marketed, performed, or offered; or

~~[(12)]~~ (13) Engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2518

Report Title:

Deceptive Trade Practices; Gender-Based Pricing; Gender Discrimination; Pink Tax; Gender Tax

Description:

Identifies gender-based pricing as a deceptive trade practice.

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