



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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February 19, 2022

TO: Chair Baker and Members of CPN Committee

RE: SB2518 SD1 RELATING TO DECEPTIVE TRADE PRACTICES

Support for hearing on February 23

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill, as it would establish discriminatory pricing of goods or services based on the gender of the customer to be a deceptive trade practice. There are situations where manufacturers sell goods at different prices for different genders, usually higher prices for women. We agree that this is a violation of civil rights. In 2020 we employed an intern, Yoo Ra Sung, to research this issue. Her conclusions supported the existence of this practice and advocated legislation to eradicate it. Attached is her article.

Thank you for your consideration.

Sincerely,

John Bickel, President

Women Don't Only Earn Less Than Men — They Pay More, Too

Although the [Equal Pay Act of 1963](#) made pay discrimination in the United States illegal over half a century ago, the gender pay gap persists in our society today.

It is ironic that in the past 50 years, women have increasingly been working more hours and surpassing men in higher education, yet receive an average of [\\$0.82 for every man's dollar](#).

The [gender pay gap](#) is even worse for women of color, with Black women earning \$0.62, Native Hawaiian/Pacific Islander women earning \$0.61 and Latino women earning \$0.54 of their male counterparts.

Despite the fact that women are pursuing college degrees at a higher rate than men, this also means that women hold nearly two-thirds of the nation's [\\$1.54 trillion dollars](#) of student loan debt. Women of minority groups are disproportionately affected, with Black women and first-generation college students attending for-profit schools affected the most.

Although women have more debt, due to the gender pay gap women have a harder time repaying their student loans, taking an average of two years longer than men to become free of student debt while being twice as likely to struggle economically in the process.

As a result of overall lower lifetime earnings, women also face an [income gap in retirement and Social Security benefits](#) — on average, women receive only 80.2% of Social Security benefits and 76.2% of pension income compared to men.

And so the gender wage gap persists. Four of the biggest factors? Occupational gender segregation, the motherhood penalty, gender-based discrimination and a lack of pay transparency.

Certain prejudices persist with traditionally male-dominated and female-dominated jobs — and jobs considered "women's work" are paid less. While women have been making efforts to move into male-dominated fields, progress has generally stagnated since the 1990s. Data from the [Bureau of Labor Statistics](#) in 2009 shows full-time, employed women on average earned less than their male counterparts in 104 of 108 surveyed occupations.

Mothers receive significantly lower salaries than women who are not mothers, fathers and men who are not fathers. Mothers working full time are paid 71% of what fathers are paid, and [studies](#) have shown that not only are employers less likely to hire mothers, when they do, they offer a lower salary than what is offered to women without children.

On the converse side, men with children are rewarded for having children, due to what is called the ["fatherhood bonus."](#) Men with children earn significantly more than any demographic on the scale. According to a 2016 [report](#) by the Senate Joint Economic Committee Democratic Staff, motherhood is generally viewed as a "signal of lower levels of commitment and professional competence" while fathers are considered to have "increased work commitment and stability."

The gender pay gap is also reinforced by beliefs that women are inferior to men and cannot produce work of equal caliber to their male counterparts. According to a [2017 Pew Research Center survey](#), 42% of surveyed women have said that they experienced gender-based discrimination at work, while only 22% of the men surveyed reported gender-based discrimination.

The most prominent form of discrimination reported was based on unequal wages, with one in four women reporting that they earned less than a male co-worker doing the same job. Compared to the number of men hired, only 72% of women are promoted and hired.

In 2015, women held only 26% of private-sector executive positions and 22% of nonprofit organizations with annual budgets of \$50 million or more, although women consisted of 75% of the nonprofit workforce.

Lastly, a lack of pay transparency made it hard for women to advocate for equal pay. Without accurate information about what their co-workers are being paid, women may not even know when they are being underpaid.

[Research](#) shows that “women with higher education levels who live in states that have outlawed pay secrecy have higher earnings, and the wage gap is consequently reduced.”

In 2019 the equal pay movement in Hawaii saw a partial breakthrough when, with the backing of the Women’s Legislative Caucus (led by Sen. Thielen and Rep. Ichiyama), [Senate Bill 2351](#) became law and prohibited prospective employers from requesting or considering a job applicant’s prior wage or salary history in the job application process. The law prohibits enforced wage secrecy and retaliation against employees who disclose or inquire about their own or their coworkers’ wages.

The 2020 legislative session almost built on the law. [House Bill 1192](#) included a number of provisions including updating the term "equal work" to "substantially similar work," and prohibiting pay discrimination not only by gender but numerous other factors including race, age, marital status and domestic or sexual violence victim status. The bill passed both houses but died very late in a session truncated by COVID-19.

The "Pink Tax"

Not only are women paid less, they are also being charged more for access to the same basic goods and necessities needed to live a reasonably fulfilling life. According to the United States Congress Joint Economic Committee’s [2016 report](#) on how gender-based pricing hurts women’s buying power, despite the fivefold increase in women’s combined earnings between 1967 and 2015, women are still limited because they are subjected to the pink tax: “[a] phenomenon [that] may not constitute intentional discrimination, [but due to] the frequency with which female consumers find themselves paying higher prices for gender-specific goods and services effectively becomes a tax on being a woman.”

A [2015 study](#) released by the New York City’s Department of Consumer Affairs examined more than 800 products across 35 categories to track gender-based price discrepancies. The analysis showed that women’s products are more than twice as likely to be priced higher than men’s products.

Baby clothes for girls cost an average of 13% more than for boys, women’s shirts cost 15% more than men’s shirts and even in old age, supports, braces and adult diapers cost 15% more for women compared to men. Women aren’t only paying more for products, they pay more for services such as dry cleaning, haircuts and car repairs as well.

Despite the financial harm the pink tax causes women, no federal law prohibits gender-based discriminatory pricing. In 1995, California passed [a law](#) that made gender-based price discrimination in services illegal, and more recently, New York passed [a similar law](#) banning the pink tax, effective since September 30, 2020. In 2018 and again in 2019, Rep. Jackie Speier (D-CA) introduced the Pink Tax Repeal Act [at the federal level](#). However, Speier’s bill died during both sessions.

The gender pay gap and the pink tax are two sides of the same coin. According to a recent [Civil Beat article](#) on the gender wage gap, “if the \$8,149 annual gender pay gap were eliminated, a working woman in Hawaii would have enough money to purchase 11.2 additional months of childcare and five and one half additional months of rent.”

In a state where countless people, especially single mothers and families, are living from paycheck to paycheck, eliminating the gender pay gap would have an astounding effect on poverty and homelessness rates.

It is not enough to simply outlaw pay discrimination on the basis of sex. Ultimately, we, as a society need to create strict guidelines for the way women are treated by employers and our economic systems.



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII**

February 23, 2022

Re: SB 2518 SD1 RELATING TO GENDER BASED PRICING

Good morning, Chairperson Baker and members of the Senate Committee on Commerce and Consumer Protection. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We are opposed to SB 2518 SD1 Relating to Gender Based Pricing. This measure establishes that gender-based pricing by manufacturers who sell the goods they manufacture to any person in the State for a price they set constitutes an unlawful deceptive trade practice.

Retailers are always price sensitive on the many products that they sell. The base price on products are set by the manufacturer, especially personal care products. These products are mostly manufactured on the mainland or in foreign countries and NOT in Hawaii and must be shipped into our state.

Furthermore, Hawaii laws would not regulate the manufactures on the mainland or foreign counties – where the vast majority of the goods are manufactured. It may even cause manufacturers and distributors to stop selling these products to Hawaii.

Retailers in Hawaii do NOT target gender-based items to increase the pricing. We like most businesses around the world, we include shipping and operational costs to the products. This pricing is normally averaged out over all the products that do not come with a Manufacture Suggested Retail Price (MSRP) label. Retailers do not go above the MSRP as they would no longer be competitive, and the customer will seek else where to find the product.

The retail industry is very price sensitive. We are competing not only with other retailers, but also many online shops.

We ask that you please hold this measure.

Mahalo again for this opportunity to testify.

SB-2518-SD-1

Submitted on: 2/20/2022 9:55:13 PM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thaddeus Pham	Individual	Support	No

Comments:

Aloha Chair Baker, Vice Chair Chang, and Members of the CPN Committee,

I am writing in support of SB2518 SD1, which would identify gender-based pricing as a deceptive trade practice.

As made clear during the ongoing COVID-19 pandemic, some communities bear a disproportionate economic burden which leads to poorer health outcomes. This measure would help to ameliorate such economic burden among women, moving towards equity for half of our state population.

Please support this important measure.

With thanks,

Thaddeus Pham (he/him)

SB-2518-SD-1

Submitted on: 2/21/2022 12:05:00 PM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Arwen Revere	Individual	Support	No

Comments:

Aloha Senator Baker, Senator Chang, and members of the committee,

My name is Arwen Revere and I am a high school student from Kailua. I am testifying in strong support of SB2518, relating to deceptive trade practices. After reading a news article about a practice in sales called 'the pink tax', I went to a few stores in my community to see if this 'gender tax' is taking place in Hawaii. I found that this is an extremely prevalent practice, especially in chain stores. I believe that the act of pricing a good or service more because it is being marketed towards a different gender is discriminatory and should not be allowed in sales.

If passed, SB2518 SD1 will protect Hawaii's consumers from discrimination in pricing based on gender, while also not hurting local retailers. While the Equal Credit Opportunity Act and Fair Housing Act prohibit discrimination based on sex in credit and housing transactions, no federal or Hawaii state law prohibits businesses from charging consumers different prices for substantially similar goods marketed towards different genders. New York City's Department of Consumer Affairs did a study on gender pricing and found that on average, "women's products cost 7 percent more than similar products for men". They also found that women pay an average of 13 percent more for personal care products. In a recent study, Hawaii was deemed one of the top states in the country with regard to gender equality. But, with the average woman in Hawaii still earning only 79.4% of what the average man does, and women of color facing even more drastic pay inequities, the financial losses women suffer from this 'gender tax' are far worse than the raw data may imply.

The passing of this bill would be a monumental step for women in Hawaii to gain economic equality. Hawaii faces many challenges beyond gender equality, but as the state addresses many urgent issues, I urge you to please stand up for gender equality.

Mahalo for the opportunity to testify,

Arwen Revere

LATE

February 23, 2022

To: Senate Committee on Commerce and Consumer Protection

Dear, Chair Baker, Vice Chair Chang, and members of the Committee,

Aloha and Hāfa ādai,

My name is Nina Gayle Baluran. I am an MSW Distance Education student from the island of Guam, attending the Thompson School of Social Work & Public Health at the University of Hawaii at Manoa. I am in strong support of SB2518 which identifies gender-based pricing as a deceptive trade practice. As a social work student and a pacific islander woman, I recognize the socioeconomic injustice placed on those who are disproportionately affected such as students, low-income and houseless girls, and women, trans and gender non-conforming individuals, and those incarcerated.

The "pink tax" refers to the extra amount women are charged for specific products or services, known as price discrimination or gender pricing. Often, the only significant distinction between products is the gender to whom they are sold. Gender pricing is a crucial problem of equity. We realize the implications of the "pink tax" in a larger perspective, particularly given that women and underprivileged groups often earn less money. The economic impact is more substantial than that of the opposite sex. It is absurd that women are charged more for items because the item is a "female" item. This taxation is a glaring form of institutionalized sexism and gender bias that must be addressed. If this law is passed, it will be a huge step forward for women's economic equality and equity in Hawaii as it is already challenging to support oneself and one's family in this place. Thank you for providing me the chance to testify.

Mahalo nui loa & si Yu'us ma'āse',

Nina Gayle Baluran
The University of Hawai'i at Mānoa
Thompson School of Social Work & Public Health
MSW Student