

JAN 20 2023

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# 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". In  
4 2015, the New York City Department of Consumer Affairs compared  
5 the prices of nearly eight hundred products at two dozen New  
6 York City retailers and found that women's products cost an  
7 average of seven per cent more than comparatively similar  
8 products for men. The study found that, over a lifetime, women  
9 are charged thousands of dollars more based solely on gender-  
10 based marketing. The legislature believes that this "pink tax"  
11 or "gender tax" is a deceptive trade practice and a form of  
12 gender discrimination.

13           Accordingly, the purpose of this Act is to establish that  
14 gender-based pricing by manufacturers who sell the goods they  
15 manufacture to any person in the State for a price they set  
16 constitutes an unlawful deceptive trade practice.



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

4 "Substantially similar goods" means goods having no  
5 substantial differences in the materials used, intended uses, or  
6 functional designs and features. Differences in coloring among  
7 consumer goods shall not constitute substantial differences for  
8 purposes of this chapter.

9 "Substantially similar services" means services having no  
10 substantial differences in the amount of time needed to provide  
11 the services, difficulty in providing the services, or cost of  
12 the services to the provider."

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

15 "(a) A person engages in a deceptive trade practice when,  
16 in the course of the person's business, vocation, or occupation,  
17 the person:

- 18 (1) Passes off goods or services as those of another;  
19 (2) Causes likelihood of confusion or of misunderstanding  
20 as to the source, sponsorship, approval, or  
21 certification of goods or services;



- 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) Prices the same or substantially similar goods or  
10           substantially similar services differently based on  
11           the gender of the individuals to whom the products are  
12           marketed or for whom the services are marketed,  
13           performed, or offered; provided that this paragraph  
14           shall apply only to manufacturers who are engaged in  
15           the activity of manufacturing and selling the goods  
16           manufactured to any person in the State for a price  
17           the manufacturer establishes; or
- 18        [~~(12)~~] (13) Engages in any other conduct which similarly  
19           creates a likelihood of confusion or of  
20           misunderstanding."



# S.B. NO. 373

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

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

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

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INTRODUCED BY: 



# S.B. NO. 373

**Report Title:**

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

**Description:**

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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

