
A BILL FOR AN ACT

RELATING TO RESTAURANTS.

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

1 SECTION 1. The legislature finds that unauthorized
2 restaurant reservation listings by third-party restaurant
3 reservation services are misleading to consumers and detrimental
4 to restaurant businesses in the State. The legislature also
5 finds that the State has an interest in preventing this
6 substantial misconduct. This Act advances the State's interest
7 by prohibiting third-parties from listing restaurant reservation
8 services without the restaurant's knowledge or prior written
9 consent. The legislature further finds that avoiding these
10 harmful effects justify the restrictions imposed by this Act.

11 Accordingly, the purpose of this Act is to:

12 (1) Prohibit third-party restaurant reservation services
13 from listing, advertising, promoting, or selling
14 restaurant reservation services without first
15 obtaining a written agreement from the applicable
16 restaurant authorizing the action; and



1 (2) Establish a private cause of action for civil
2 remedies.

3 SECTION 2. Chapter 489J, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 **"§489J- _____ Unauthorized restaurant reservations;**
7 **prohibited.** (a) No third-party restaurant reservation service
8 shall advertise, list, promote, or sell reservations for a
9 restaurant through the third-party restaurant reservation
10 service's website, mobile application, or other digital platform
11 unless the restaurant, or a contractual designee of the
12 restaurant expressly authorized by the restaurant to distribute
13 reservations to a third party, agrees in writing for the third-
14 party restaurant reservation service to advertise, list,
15 promote, or sell reservations for that restaurant.

16 (b) No agreement executed pursuant to subsection (a) shall
17 include a provision, clause, or covenant requiring the
18 restaurant to indemnify the third-party restaurant reservation
19 service, any independent contractor acting on behalf of the
20 third-party restaurant reservation service, or any registered
21 agent of the third-party restaurant reservation service for any



1 harm arising from an act or omission initiated by the third-
2 party restaurant reservation service; provided that any
3 provision, clause, or covenant in violation of this subsection
4 shall be void.

5 (c) Any person who is charged a fee or price by or through
6 a third-party restaurant reservation service for a reservation
7 that is advertised, listed, promoted, or sold in violation of
8 this section; or any restaurant for which a third-party
9 restaurant reservation service has advertised, listed, promoted,
10 or sold a reservation in violation of this section may bring a
11 civil action in any court of competent jurisdiction for the
12 following:

13 (1) Injunctive relief to restrain or enjoin any activity
14 in violation of this section;

15 (2) Actual damages; provided that the actual damages shall
16 not exceed the total fees collected by the third-party
17 restaurant reservation service for the subject
18 violation; and

19 (3) Attorneys' fees and costs and any other remedies that
20 the court deems appropriate.



1 (d) Any action alleging a violation of this section shall
2 be brought within one year of the occurrence of the acts alleged
3 to have violated this section.

4 (e) For the purposes of this section:

5 "Restaurant" means a food establishment in which food is
6 provided free of charge or sold to consumers for consumption on
7 or off the premises. "Restaurant" includes dine-in
8 establishments, pushcarts, food stands, and vehicles.

9 "Third-party restaurant reservation service" means any
10 website, mobile application, or other digital platform that:

11 (1) Offers or arranges for reserving on-premises service
12 for a customer at a restaurant; and

13 (2) Is owned and operated by an entity other than the
14 entity that owns the applicable restaurant."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. This Act shall not be applied so as to impair
19 any contracts existing as of the effective date of this Act in a
20 manner violative of the Contract Clause under article I,



1 section 10, of the United States Constitution or the Hawaii
2 State Constitution.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Restaurants; Reservations; Third-Party Restaurant Reservation Services; Unauthorized Actions; Prohibition; Remedies

Description:

Prohibits third-party restaurant reservation services from listing, advertising, promoting, or selling restaurant reservations without first obtaining a written agreement from the applicable restaurant authorizing the action. Establishes a private cause of action for civil remedies. Effective 7/1/3000. (HD1)

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