
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The legislature finds that, as the cost of
2 living continues to increase in the State, it is necessary for
3 the State to intervene in markets where retailers and goods and
4 services providers are treating consumer unfairly. The ability
5 to identify the price of a good or service is a necessity for a
6 properly functioning economy. Consumers look for prices to
7 comparison shop and to weigh what a good or service might be
8 worth. Most consumers rely on price to answer critical
9 questions around how much they are able to spend and save, and
10 how they will meet their basic needs and those of their
11 families.

12 The legislature also finds that consumers increasingly face
13 widespread and growing unfair and deceptive fee practices that
14 make it harder to identify how much something will ultimately
15 cost. Unfortunately, the Internet and the ability to purchase
16 goods or services online have only exacerbated the practice of
17 charging mandatory "junk fees" that are not disclosed until



1 after the transaction begins. The practice of charging junk
2 fees and other undisclosed mandatory costs is called "drip
3 pricing". Drip pricing is most prevalent in practices involving
4 fees for live-event tickets and short-term lodging and other
5 places of temporary sleeping accommodations, such as hotels,
6 motels, inns, short-term rentals, and vacation rentals.

7 The legislature further finds that according to the Federal
8 Trade Commission, in the last few years alone, tens of thousands
9 of Americans have cried foul when they discovered the cost of
10 their hotel stays were significantly higher than expected due to
11 hidden resort fees and other mandatory charges in addition to
12 the advertised price. Consumers have also complained about
13 purchasing tickets to a live-event online and finding out that
14 the quoted ticket price was almost doubled by the time they
15 reached the final checkout page. Consumers have confronted a
16 host of mysterious, mandatory charges labeled as "convenience",
17 "processing", or "service" fees that are nondescriptive and
18 confusing. These practices are frustrating for consumers when
19 they shop for travel and entertainment, especially because these
20 purchases can be significant expenditures to their already
21 strained finances.



1 The legislature additionally finds that the Federal Trade
2 Commission recently issued a final trade regulation rule to
3 address certain unfair or deceptive practices involving fees or
4 charges for live-event tickets and short-term lodging. This
5 rule serves as a guidance for the State to enhance its consumer
6 protection laws and allow consumers to make better informed
7 purchasing decisions when purchasing live-event tickets or
8 deciding where to stay on a short-term basis by leveling the
9 playing field for honest businesses in these industries that
10 truthfully and transparently disclose their pricing information.

11 Accordingly, the purpose of this Act is to:

- 12 (1) Require businesses that offer a price for live-event
13 tickets or short-term lodging to disclose the total
14 price, inclusive of most mandatory charges, and to
15 ensure that the total price is disclosed more
16 prominently than other pricing information, except the
17 final amount of payment; and
- 18 (2) Prohibit misrepresentations about fees or charges in
19 any offer, display, or advertisement for the sale of
20 live-event tickets and short-term lodging.



1 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§481B- Unfair or deceptive practices; junk fees
5 prohibited. (a) No business shall offer, display, or advertise
6 any price of a covered good or service without clearly and
7 conspicuously disclosing the total price.

8 (b) In any offer, display, or advertisement that
9 represents any price of a covered good or service, a business
10 shall disclose the total price more prominently than any other
11 pricing information, except the final amount of payment.

12 (c) A business shall disclose clearly and conspicuously,
13 before the consumer consents to pay for any covered good or
14 service:

15 (1) The nature, purpose, and amount of any fee or charge
16 imposed on the transaction that has been excluded from
17 the total price and the identity of the good or
18 service for which the fee or charge is imposed; and

19 (2) The final amount of payment for the transaction.

20 (d) The disclosure required pursuant to subsection (c)
21 shall be subject to the following:



- 1 (1) In any communication that is solely visual or solely
2 audible, the disclosure shall be made through the same
3 means through which the communication is presented.
4 In any communication made through visual and audible
5 means, such as a television advertisement, the
6 disclosure shall be presented simultaneously in both
7 the visual and audible portions of the communication,
8 even if the representation requiring the disclosure is
9 made in only one means;
- 10 (2) A visual disclosure, by its size, contrast, location,
11 the length of time it appears, and other
12 characteristics, shall stand out from any accompanying
13 text or other visual elements so that it is easily
14 noticed, readable, and understandable;
- 15 (3) An audible disclosure, including by telephone or
16 streaming video, shall be delivered in a volume,
17 speed, and cadence that is sufficiently and easily
18 hearable and understandable for ordinary consumers;
- 19 (4) In any communication using an interactive electronic
20 medium, such as the Internet, a mobile application, or
21 software, the disclosure shall be unavoidable;



1 (5) The disclosure shall use diction and syntax
2 understandable to ordinary consumers and shall appear
3 in each language in which the representation that
4 requires the disclosure appears;

5 (6) The disclosure shall comply with these requirements in
6 each medium through which it is received, including
7 all electronic devices and face-to-face
8 communications; and

9 (7) The disclosure shall not be contradicted or mitigated
10 by, or inconsistent with, other content in the
11 communication;

12 provided that, when the representation or sales practice targets
13 a specific audience, such as children, older adults, or the
14 terminally ill, members of that group shall be considered
15 ordinary consumers.

16 (e) In any offer, display, or advertisement for a covered
17 good or service, it shall be an unfair or deceptive practice in
18 violation of this section for any business to misrepresent any
19 fee or charge, including but not limited to:

20 (1) The nature, purpose, amount, or refundability of any
21 fee or charge; and



1 (2) The identity of the good or service for which the fee
2 or charge is imposed.

3 (f) For the purposes of this section:

4 "Business" means a person that offers goods or services,
5 whether online, via mobile applications, or at physical
6 locations.

7 "Clearly and conspicuously" refers to a required disclosure
8 that is made easily noticeable (i.e., difficult to miss) and
9 easily understandable by ordinary consumers.

10 "Covered goods or services" means:

11 (1) Live-event tickets; or

12 (2) Short-term lodging, including temporary sleeping
13 accommodations at a hotel, motel, inn, short-term
14 rental, vacation rental, or other place of lodging.

15 "Government charges" means the fees or charges imposed on
16 the transaction by a federal, state, tribal, or local government
17 agency, unit, or department.

18 "Pricing information" means any information relating to an
19 amount that a consumer may pay.

20 "Shipping charges" means the fees or charges that
21 reasonably reflect the amount a business incurs to send physical



1 goods to a consumer, including through the mail, private mail
2 and shipping services, or by freight.

3 "Total price" means the maximum total of all fees or
4 charges a consumer would pay for any good or service; provided
5 that government charges, shipping charges, and fees or charges
6 for any optional goods or services may be excluded."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12



Report Title:

Consumer Protection; Unfair and Deceptive Practices; Live-Event Tickets; Short-Term Lodging; Booking Transactions; Disclosures; Drip Pricing; Junk Fees

Description:

Prohibits businesses from offering, displaying, or advertising any price of a live-event tickets or short-term lodging without clearly and conspicuously disclosing the maximum total of all fees or charges; provided that government charges, shipping charges, and fees or charges for optional goods or services may be excluded. Requires businesses to disclose clearly and conspicuously certain information, including the final amount of payment, before the consumer consents to pay for the live-event ticket or short-term lodging. Establishes that misrepresentation of any fees or charges in offers, displays, or advertisements for live-event tickets or short-term lodging by businesses constitutes an unfair or deceptive practice. (SD1)

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