

STAND. COM. REP. NO.

164

Honolulu, Hawaii

FEB 10 2025

RE: S.B. No. 102
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 102 entitled:

"A BILL FOR AN ACT RELATING TO RESTAURANTS,"

begs leave to report as follows:

The purpose and intent of this measure is to protect restaurant businesses and consumers in the State by prohibiting third-party restaurant reservation services from offering or providing restaurant reservation services for a restaurant without first obtaining written authorization from the restaurant and establishing penalties.

Your Committee received testimony in support of this measure from the Hawai'i Restaurant Association.

Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that unauthorized restaurant reservation service listings can sometimes be misleading to consumers and detrimental to restaurants. When a third-party reservation service lists a restaurant on their website or other platform, they are, in essence working as an agent of the restaurant. This measure requires that these third-party reservation services obtain written authorization before listing a restaurant on their



platform to ensure that the restaurant's description, services, and offers are accurately reflected on the third-party platform.

Your Committee acknowledges the testimony of the Department of the Attorney General, which raised concerns that this measure may be subject to constitutional challenges under the First Amendment of the United States Constitution, as a potential restriction on commercial speech, and under the Contract Clause, of the United States Constitution, as an impairment of contracts. Amendments to this measure are therefore necessary to address these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Inserting legislative findings specifying the State's interest in preventing the substantial misconduct prohibited by this measure;
- (2) Inserting language to clarify that this measure shall not be applied so as to impair any contract existing as of the effective date in a manner that would violate the Hawaii State Constitution or the Contract Clause under the United States Constitution;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 102, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



JANETTE MEHOKALOLE, Chair



