

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 MEOHOKALOLE, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

| | | | | |
|---|--|---|-----|---------|
| Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB102</div> | Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPN, JDC</div> | Date: <div style="font-size: 1.2em; font-family: cursive;">1/28/25</div> | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div> | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| KEOHOKALOLE, Jarrett (C) | ✓ | | | |
| FUKUNAGA, Carol (VC) | ✓ | | | |
| MCKELVEY, Angus L.K. | ✓ | | | |
| RICHARDS, III, Herbert M. "Tim" | ✓ | | | |
| AWA, Brenton | ✓ | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| TOTAL | 5 | Ø | Ø | Ø |
| Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div> | | | | |
| Chair's or Designee's Signature: <div style="font-size: 1.2em; font-family: cursive; margin-top: 10px;">Carol Fukunaga</div> | | | | |
| Distribution: <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div> | | | | |

***Only one measure per Record of Votes**