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Date: March 19, 2025

To: Rep. David A. Tamas. Chair
Rep. Mahina Poepoe, Vice Chair
Members of Committee on Judiciary & Hawaiian Affairs

From: Victor Lim, Legislative Lead

Subj: SB 102, SD2, HD1 Relating to Restaurants

The Hawaii Restaurant Association representing 4,000 Eating and Drinking Place locations in Hawaii strongly supports SB102 SD2 HD1 that 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 and establishing civil penalties.

It is only right that when a reservation service business list restaurant on their apps and websites, they are in a sense working as an agent of that established restaurant. This required authorization ensures that the restaurant description, service, and offers are accurate, and the restaurant knows and approve what this listing service provides. This helps prevent reservation piracy.

Similar legislation has also passed in many places across the United States.

Thank you for allowing us to lend our support with this Bill 102, SD2, HD1.



March 16, 2025

The Honorable Representative David A. Tarnas
Chair, House Committee on Judiciary and Hawaiian Affairs
The Thirty-Third Legislature
State Capitol State of Hawaii Honolulu,
Hawaii 96813

The Honorable Representative Mahina Poepoe
Vice Chair, House Committee on Consumer Protection & Commerce
The Thirty-Third Legislature
State Capitol State of Hawaii Honolulu,
Hawaii 96813

Re: Comments in Support of SB102 H.D. 1

Dear Chair Tarnas,, Vice Chair Poepoe and House JHA members:

I write on behalf of Booking Holdings, Inc., and its subsidiary operating brand, OpenTable. OpenTable is a leader in restaurant technology with 55,000 restaurants and millions of diners worldwide. OpenTable is part of [Booking Holdings](#), the world's leading provider of online travel and related services, serving consumers and local partners in more than 220 countries and also includes [Booking.com](#), [Priceline](#), [KAYAK](#). We are proud to support our thousands of accommodations and restaurant partners across Hawaii—the vast majority of which are small businesses—empowering them to reach a global customer base.

OpenTable's mission is to help restaurants thrive—our goal is to help restaurants take care of their guests, their teams and their bottom line. The recent proliferation of restaurant reservation piracy negatively impacts restaurants, their employees, and diners. Restaurants run on razor-thin profit margins, and a few no-shows on any given day (often the byproduct of reservation piracy) can mean an independent restaurant is unprofitable or employees are unable to earn the income they rely on.

That's why Booking Holdings and OpenTable write to express our support for SB 102 combating restaurant reservation piracy. We thank the bill sponsors and the committee for their leadership and attention to this issue. Hawaii is part of the growing list of states working to address this issue with similar legislation, including New York, California, Nevada, Louisiana, Illinois and Florida.

We would also like to take this opportunity to suggest one change to the bill. The clause related to indemnity (Section 2. (b)) is unrelated to the matter at hand and should be omitted from the bill. It has not been included in any other state law or bill on this matter and seems a vestige of legislation in New York, the first state to address restaurant reservation piracy, related to restaurant delivery services which involve third-party independent contractor delivery workers which is not germane to this matter.

Thank you for the opportunity to share our support for legislation addressing this important issue.

Sincerely,

Zachary Russem
Head of U.S. State and Local Policy
Booking Holdings

SB-102-HD-1

Submitted on: 3/19/2025 9:17:47 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Matt Matsunaga	American Express Company	Comments	Written Testimony Only

Comments:

To: Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair
Members of the Committee on Judiciary & Hawaiian Affairs

Date: Thursday, March 20, 2025

Time: 2:00 p.m.

Place: Conference Room 325
State Capitol
415 South Beretania Street

Comments on SB 102 HD1

I am an attorney for American Express Company (“Amex”), and I respectfully submit comments on SB 102 HD1, which 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 and establishes a private cause of action for civil remedies.

This bill is modeled after a New York bill that passed last year. It impacts Amex’s restaurant reservation platforms, Resy and Tock, and we are working with the Restaurant Association and Open Table on this concept in a handful of other states. It’s intended to stop the unauthorized taking of restaurant reservations and then selling those reservations. Unfortunately, workarounds to evade the bill’s intent have emerged since the New York bill surfaced and we are seeking amendments to the language to protect against the workarounds. Resy and Tock are also seeking the right to sue for the harm from this activity as it is the same as the harm to individuals and to restaurants.

Hence, if this bill moves forward, I ask that the Committee consider amending proposed subsections (a) and (c) in Section 2 of the bill to read (in relevant part) as follows (new language in bold/italics):

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

"§489J- Unauthorized restaurant reservations; prohibited. (a) No third-party restaurant reservation service shall advertise, list, promote, *facilitate, enable*, or sell reservations for a

restaurant through the third-party restaurant reservation service's website, mobile application, or other digital platform unless the restaurant, or a contractual designee of the restaurant expressly authorized by the restaurant to distribute reservations to a third party, agrees in writing for the third-party restaurant reservation service to advertise, list, promote, ***facilitate, enable*** or sell reservations for that restaurant.

(b) No agreement executed pursuant to subsection (a) shall include a provision, clause, or covenant requiring the restaurant to indemnify the third-party restaurant reservation service, any independent contractor acting on behalf of the third-party restaurant reservation service, or any registered agent of the third-party restaurant reservation service for any harm arising from an act or omission initiated by the third-party restaurant reservation service; provided that any provision, clause, or covenant in violation of this subsection shall be void.

(c) Any person who is charged a fee or price by or through a third-party restaurant reservation service for a reservation that is advertised, listed, promoted, ***facilitated, enabled***, or sold in violation of this section; or any restaurant for which a third-party restaurant reservation service has advertised, listed, promoted, ***facilitated, enabled***, or sold a reservation; ***or food service establishment's contractual designee, who obtained reservation distribution rights directly from the food service establishment, with respect to a reservation listed, advertised, promoted, facilitated, enabled or sold*** in violation of this section may bring a civil action in any court of competent jurisdiction for the following:

Thank you for your consideration.

SB-102-HD-1

Submitted on: 3/19/2025 1:02:57 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Olderr	Individual	Support	Written Testimony Only

Comments:

We cannot allow our local restaurants to be abused and taken advantage of by big companies that want to maximize profits at the expense of mom-and-pop shops. This bill would not only protect local restaurants but also improve the health and safety of the consumers. This way, the restaurants could take better precautions to prep the food for transit.