



**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I**  
**OFFICE OF CONSUMER PROTECTION**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
**KA 'OIHANA PILI KĀLEPA**  
LEIOPAPA A KAMEHAMEHA BUILDING  
235 SOUTH BERETANIA STREET, ROOM 801  
HONOLULU, HAWAI'I 96813-2419  
Phone Number: (808) 586-2636  
Fax Number: (808) 586-2640  
[cca.hawaii.gov/ocp/](http://cca.hawaii.gov/ocp/)

**NADINE Y. ANDO**  
DIRECTOR | KA LUNA HO'OKELE

**DEAN I HAZAMA**  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

**MANA MORIARTY**  
EXECUTIVE DIRECTOR  
OFFICE OF CONSUMER PROTECTION

**JAMES F. EVERS**  
**RADJI O. TOLENTINO**  
**MELISSA N. LAM**  
**DOMINIC S. JANCATERINO**  
**EMMA K. OLSEN**  
ENFORCEMENT ATTORNEYS

**Testimony of the Department of Commerce and Consumer Affairs**

**Office of Consumer Protection**

**Before the**  
**House Committee on Consumer Protection and Commerce**  
**Tuesday, March 18, 2025**  
**2:05 p.m.**  
**Capitol Room 329**

**On the following bill:**  
**S.B.1035, S.D. 2 RELATING TO CONSUMER PROTECTION**

Chair Matayoshi, Vice Chair Chun, and Members of the Committees:

My name is Mana Moriarty and I am the Executive Director for the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports the intent of this bill and offers comments.

The purpose of this bill is to address the harmful practices of bait-and-switch pricing and misleading fees and charges in the live-event ticketing and short-term lodging industries. The harms attendant to these practices are particularly pronounced in these industries, where most transactions occur online. Consumers trying to comparison shop across multiple websites are unable to do so because some businesses hide the true total price and force consumers to go to different sites and click through multiple web pages for each offer to learn the true total price. Consumer harm is also pronounced in these industries because the offered goods and services are often identical (as is the case with live-event tickets), or nearly identical (as is the case with competing short-term lodging

offers in a particular destination and for a particular star rating), and the most salient feature is the total price, which is shrouded from consumers.

In December 2024, the Federal Trade Commission (FTC) issued a final trade regulation rule to combat hidden fees and misrepresentations about pricing in the live-event ticketing and short-term lodging industries.<sup>1</sup> The Rule was finalized after intense debate.<sup>2</sup> Scheduled to take effect May 12, 2025, the Rule will apply on a nationwide basis and empower state attorneys general to enforce it, unless intervening events undermine the Rule's implementation. If intervening events undermine the Rule's implementation, there will be no nationwide standard for state law enforcement to enforce.

The Department supports enactment of a state law that protects consumers equally or greater than the Rule. We recommend amending this bill so that its text aligns with the Rule to ensure that there is no separation between the state and federal standards. This will ensure a single legal standard applies to live-event ticketing and short-term lodging operators operating in Hawaii regardless of future events at the federal level. We have attached a proposed draft with our recommended wording. We respectfully ask the Committee to make the amendments in the attached, S.B. No. 1035, Proposed H.D. 1.

A brief description of the amendments necessary to conform the bill to the Rule follows below.

#### **Displaying the Final Amount of Payment versus the Total Price**

The Rule requires that “where the final amount of payment for the transaction is displayed, the final amount of payment must be disclosed more prominently than, or as prominently as, the total price.” The provision is absent from this bill and should be added at page 4, line 11 to conform to the Rule. This clarification could help avoid merchant

---

<sup>1</sup> Trade Regulation Rule on Unfair or Deceptive Fees, 90 Fed. Reg. 2066, RIN 3084-AB77, 16 C.F.R. Part 464.

<sup>2</sup> The Advanced Notice of Proposed Rulemaking, published on November 8, 2022, led to receipt of more than 12,000 comments; the Notice of Proposed Rulemaking, published November 9, 2023, led to receipt of nearly 61,000 comments (with more than 48,000 in support). The Commission conducted an informal hearing on April 24, 2024, at which seventeen interested parties were identified and fifteen made presentations. <https://www.federalregister.gov/d/2024-30293/p-144>

confusion about the manner in which the total price and final payment amount must be displayed when both are present in an offer or advertisement.

**Add a Definition of “Ancillary Goods or Services”**

The Rule includes a definition of “ancillary goods or services” and defines the Total Price as “all fees or charges a consumer must pay for a good or service and any mandatory ancillary good or service.” This bill should be amended by adding a definition of “ancillary goods or services,” and amending the definition of Total Price, to conform to the Rule. The definition should be inserted at page 7, line 4 of the bill. This language addresses the situation where a merchant offers a good or service and imposes additional fee. The Commission identified “a previously undisclosed resort fee that a hotel discloses at check-in is not an optional fee if the hotel will charge the fee unless the guest challenges the fee.” 90 Fed. Reg. 2066 at 525 (<https://www.federalregister.gov/d/2024-30293/p-525>).

**Add a Definition of “Clearly and Conspicuously”**

The Rule includes a lengthy definition of “clearly and conspicuously” which aligns closely with other Commission orders and rules. The Office of Consumer Protection and state courts in Hawaii are required to give due consideration to the orders and rules of the Commission. The department’s position is that the public is better served by incorporating definition from the Rule into state law. As written, the bill extracts from the Rule the eight paragraphs under the definition of “clear and conspicuous” and places them in their own section, untethered to the definition of “clear and conspicuous.” See page 4, line 20 – page 6, line 15. OCP recommends moving these eight paragraphs back into the definition of “clear and conspicuous” so “clear and conspicuous” can be interpreted by the courts in a manner consistent with the Commission’s orders and rules.

**Additional changes to correct references and clarify the intent of the law**

At page 4, line 5, OCP recommends modifying the language to clarify that it “is an unfair or deceptive act or practice in violation of section 480-2 and a violation of this part” to engage in the prohibited conduct.

At page 6, line 18, OCP recommends modifying the language to clarify that it “shall be an unfair or deceptive practice in violation of this section 480-2 and a violation of this part.”

At page 7, lines 4-6, OCP recommends modifying the definition of “business” to conform to the Rule and to avoid inadvertently narrowing the scope of this bill.

At page 8, lines 3-6, OCP recommends modifying the definition of “total price” by changing “would” to “must” to conform to the Rule, and to incorporate “ancillary goods or services” within the definition.

\*\*\*

With the recommended changes, the Department would support the bill.

This bill defines additional unfair or deceptive acts or practices in trade or commerce, violations of which OCP has the power to enforce by bringing a civil action for a violation of state consumer protection laws. OCP routinely brings civil actions to enforce state consumer protection laws, including state laws defining unfair or deceptive practices under Hawai'i Revised Statutes (“HRS”) Chapter 481B, Part I, and HRS section 480-2. OCP is a division of the Department of Commerce and Consumer Affairs that is “designated the consumer counsel for the State” and required to “represent and protect the State, the respective counties, and the general public as consumers.” OCP is statutorily required to give due consideration to FTC trade regulation rules which define unfair or deceptive acts or practices under federal consumer protection law. This includes the Rule.

The Department appreciates the intent of this bill and the opportunity to testify on it.

---

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

13       The legislature also finds that consumers  
14 increasingly face widespread and growing unfair and  
15 deceptive fee practices that make it harder to identify

## S.B. NO.1035

1 how much something will ultimately cost. Unfortunately,  
2 the Internet and the ability to purchase goods or  
3 services online have only exacerbated the practice of  
4 charging mandatory "junk fees" that are not disclosed  
5 until after the transaction begins. The practice of  
6 charging junk fees and other undisclosed mandatory costs  
7 is called "drip pricing". Drip pricing is most prevalent  
8 in practices involving fees for live-event tickets and  
9 short-term lodging and other places of temporary sleeping  
10 accommodations, such as hotels, motels, inns, short-term  
11 rentals, and vacation rentals.

12 The legislature further finds that according to the  
13 Federal Trade Commission, in the last few years alone,  
14 tens of thousands of Americans have cried foul when they  
15 discovered the cost of their hotel stays were  
16 significantly higher than expected due to hidden resort  
17 fees and other mandatory charges in addition to the  
18 advertised price. Consumers have also complained about  
19 purchasing tickets to a live-event online and finding out  
20 that the quoted ticket price was almost doubled by the

# S.B. NO.1035

1 time they reached the final checkout page. Consumers  
2 have confronted a host of mysterious, mandatory charges  
3 labeled as "convenience", "processing", or "service" fees  
4 that are nondescriptive and confusing. These practices  
5 are frustrating for consumers when they shop for travel  
6 and entertainment, especially because these purchases can  
7 be significant expenditures to their already strained  
8 finances.

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

# S.B. NO.1035

Accordingly, the purpose of this Act is to:

(1) Require businesses that offer a price for live-event tickets or short-term lodging to disclose the total price, inclusive of most mandatory charges, and to ensure that the total price is disclosed more prominently than other pricing information, except the final amount of payment; and

(2) Prohibit misrepresentations about fees or charges in any offer, display, or advertisement for the sale of live-event tickets and short-term lodging.

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

**"§481B- Unfair or deceptive practices; junk fees prohibited.** (a) No business shall It is an unfair or deceptive practice in violation of section 480-2 and a violation of this part for any business to offer, display, or advertise any price of a covered good or service without clearly and conspicuously disclosing the total price.



# S.B. NO.1035

1        (b) In any offer, display, or advertisement that  
2        represents any price of a covered good or service, a  
3        business shall disclose the total price more prominently  
4        than any other pricing information, except the final  
5        amount of payment. information. However, where the final  
6        amount of payment for the transaction is displayed, the  
7        final amount of payment must be disclosed more  
8        prominently than, or as prominently as, the total price.

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

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

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

18       ~~(d) The disclosure required pursuant to subsection~~  
19       ~~(c) shall be subject to the following:~~

# S.B. NO.1035

1 ~~—— (1) In any communication that is solely visual or~~  
2 ~~solely audible, the disclosure shall be made through the~~  
3 ~~same means through which the communication is~~  
4 ~~presented. In any communication made through visual and~~  
5 ~~audible means, such as a television advertisement, the~~  
6 ~~disclosure shall be presented simultaneously in both the~~  
7 ~~visual and audible portions of the communication, even if~~  
8 ~~the representation requiring the disclosure is made in~~  
9 ~~only one means;~~

10 ~~—— (2) A visual disclosure, by its size, contrast,~~  
11 ~~location, 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~~  
16 ~~or 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~~  
20 ~~electronic medium, such as the Internet, a mobile~~

# S.B. NO.1035

1 ~~application, or software, the disclosure shall be~~

2 ~~unavoidable;~~

3 ~~\_\_\_\_\_ (5) The disclosure shall use diction and syntax~~

4 ~~understandable to ordinary consumers and shall appear in~~

5 ~~each language in which the representation that requires~~

6 ~~the disclosure appears;~~

7 ~~\_\_\_\_\_ (6) The disclosure shall comply with these~~

8 ~~requirements in each medium through which it is received,~~

9 ~~including all electronic devices and face-to-face~~

10 ~~communications; and~~

11 ~~\_\_\_\_\_ (7) The disclosure shall not be contradicted or~~

12 ~~mitigated by, or inconsistent with, other content in the~~

13 ~~communication;~~

14 ~~provided that, when the representation or sales practice~~

15 ~~targets a specific audience, such as children, older~~

16 ~~adults, or the terminally ill, members of that group~~

17 ~~shall be considered ordinary consumers.~~

18 (e) In any offer, display, or advertisement for a

19 covered good or service, it shall be an unfair or

20 deceptive practice in violation of ~~this~~ section 480-2 and

# S.B. NO.1035

1 a violation of this part for any business to misrepresent  
2 any fee or charge, including but not limited to:

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

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

7 (f) For the purposes of this section:

8 "Ancillary good or service" means any additional  
9 good(s) or service(s) offered to a consumer as part of  
10 the same transaction.

11 "Business" means a person that offers goods or  
12 services, whether including but not limited to online,  
13 via in mobile applications, or at physical locations.

14 "Clearly and conspicuously" refers to a required  
15 disclosure that is made easily noticeable (i.e.,  
16 difficult to miss) and easily understandable by ordinary  
17 consumers, including in all of the following ways:

18 (1) In any communication that is solely visual or  
19 solely audible, the disclosure must be made through the  
20 same means through which the communication is presented.

# S.B. NO.1035

1 In any communication made through both visual and audible  
2 means, such as a television advertisement, the disclosure  
3 must be presented simultaneously in both the visual and  
4 audible portions of the communication even if the  
5 representation requiring the disclosure is made in only  
6 one means.

7 (2) A visual disclosure, by its size, contrast,  
8 location, the length of time it appears, and other  
9 characteristics, must stand out from any accompanying  
10 text or other visual elements so that it is easily  
11 noticed, read, and understood.

12 (3) An audible disclosure, including by telephone or  
13 streaming video, must be delivered in a volume, speed,  
14 and cadence sufficient for ordinary consumers to easily  
15 hear and understand it.

16 (4) In any communication using an interactive  
17 electronic medium, such as the internet, a mobile  
18 application, or software, the disclosure must be  
19 unavoidable.

# S.B. NO.1035

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

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

9       (7) The disclosure must not be contradicted or  
10      mitigated by, or inconsistent with, anything else in the  
11      communication.

12      (8) When the representation or sales practice targets  
13      a specific audience, such as children, older adults, or  
14      the terminally ill, "ordinary consumers" includes members  
15      of that group.

16      "Covered goods or services" means:

17      (1) Live-event tickets; or

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

# S.B. NO.1035

1       "Government charges" means the fees or charges  
2 imposed on the transaction by a federal, state, tribal,  
3 or local government agency, unit, or department.

4       "Pricing information" means any information relating  
5 to an amount that a consumer may pay.

6       "Shipping charges" means the fees or charges that  
7 reasonably reflect the amount a business incurs to send  
8 physical goods to a consumer, including through the mail,  
9 private mail and shipping services, or by freight.

10       "Total price" means the maximum total of all fees or  
11 charges a consumer ~~would~~ must pay for any good or  
12 service, and any mandatory ancillary good or service,  
13 provided that government charges, shipping charges, and  
14 fees or charges for any optional ancillary good or  
15 service may be excluded."

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

19       SECTION 4. New statutory material is underscored.

# S.B. NO.1035

**1** SECTION 5. This Act shall take effect upon its  
**2** approval.



# S.B. NO.1035

**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. (Proposed HD 1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



## **COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**DATE: Tuesday, March 18, 2025**

**TIME: 10:00 AM**

### **Strongly Support 1035 SD2**

Aloha Chair Matayoshi, Vice Chair Chun and Members of the Committee,

I am Antoinette Davis, President and founder of PonoRez, a real-time web-based ticketing system in Hawaii. PonoRez supports SB1035, which pertains to total cost displayed for accommodations and ticketing, due to its prevalence and the clear issue of consumer deception.

I also wear a second hat as the executive director of the Activities & Attractions Association of Hawaii, (A3H). A consumer advocate trade association whose members are Hawaii activities, attractions and tours. There was no consensus with these entities regarding this Bill due to the unknown software challenges that it might present.

VAT (value added taxes), Ticketing Fees or Service Fees added at checkout started in the early 2000s with Ticket Master for concert events. These started as a small flat fee to cover the ticketing system. Today these fees have shifted to percentages and at more than 6%, can cause a significant jump in price by the time the consumer is on the checkout page.

The opposition argues duplicity, referencing the Federal Trade Commission's (FTC) price transparency regulations, this legislation remains essential due to the epidemic-level prevalence in Hawaii and the involvement of foreign entities providing software to facilitate these transactions. Should they be subject to GET? Are they being paid?

If not, the revenues owed are in the millions, possibly tens of millions. The most popular software fees are 6% and retained by an online reservation systems headquartered outside the U.S. This practice ultimately skims revenue away from Hawaii. I encourage you to visit a tourism experience online and observe this markup at check out for yourselves.

The state's in-destination experience sales total in the billions annually. This has been taking place since 2010 at least.

Mahalo for your time, consider and the opportunity to testify.

# **RICK BARTALINI PRESENTS**

Rick Bartalini Presents  
1001 Queen Street, Unit 2010  
Honolulu, HI 96814  
rick@rbpconcerts.com  
808-727-9590

March 16, 2025

Honorable Rep. Scot Z. Matayoshi, Chair  
Honorable Rep. Cory M. Chun, Vice Chair  
Honorable Members of the Committee on Consumer Protection & Commerce  
Hawaii State Legislature

Re: Testimony in Support of SB 1035, SD2

Dear Chair Matayoshi, Vice Chair Chun, and Honorable Members of the Committee,

My name is Rick Bartalini, and I am the founder and president of Rick Bartalini Presents, LLC, a concert promotion company based in Hawaii. Since 2010, my company has been dedicated to creating unforgettable experiences by bringing world-class artists to the islands, enriching Hawaii's cultural landscape, and providing memorable entertainment for our community. I am writing to express my strong support for SB 1035, SD2, which aims to bring transparency to ticket pricing by eliminating hidden fees. This legislation is crucial for fostering trust between consumers and the entertainment industry.

Rick Bartalini Presents was originally founded in California, where I promoted concerts across Northern California and Oregon, including in San Francisco, San Jose, and Oakland. In 2016, I relocated the company to Hawaii, and since then, we have exclusively booked concerts in the islands.

We led the way as the first concert promoters in Hawaii to implement all-in pricing and have been doing so for over a year. While some companies are only now embracing transparency, we took the initiative early to ensure that ticket buyers know the full cost upfront, eliminating surprises at checkout. Our commitment to fair pricing has always been centered around the consumer experience, fostering trust, and making events more accessible to the people of Hawaii.

This approach aligns with the growing industry trend toward transparency. Ticketmaster, for example, has introduced all-in pricing, allowing fans to see the full cost, including fees, from the moment they start shopping. This initiative has already been implemented in states like New York, Tennessee, Connecticut, California, Maryland, Minnesota, North Carolina, Colorado, and

Massachusetts, where all-in pricing is mandated by law. If large industry players recognize the importance of price transparency, Hawaii should also take steps to protect its consumers.

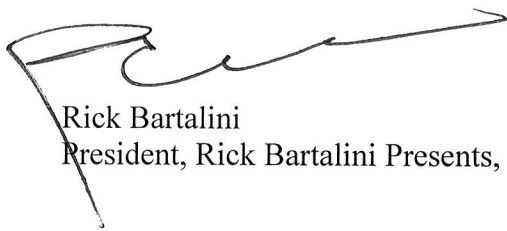
Hawaii is unique in that its economy relies heavily on both local consumers and visitors who come from around the world. Whether purchasing tickets for a concert, booking a hotel, or securing other experiences, hidden fees create unnecessary financial strain and frustration. For local residents, many of whom save up to attend concerts and events, deceptive pricing makes it harder to budget and enjoy these experiences. When they book a hotel for a family staycation or special event, undisclosed fees add up quickly, turning what should be an exciting experience into an unexpected financial burden.

For visitors, Hawaii is seen as a welcoming and world-class destination, yet many arrive only to encounter hidden fees on hotel bookings, excursions, and entertainment. This not only harms individual consumers but also damages Hawaii's reputation as a fair and transparent place to visit. By passing SB 1035, SD2, Hawaii can lead the way in ensuring that both residents and visitors are protected from misleading pricing practices—whether they are purchasing event tickets, booking hotels, or making other travel-related purchases. This bill is a step toward fairness and transparency, reinforcing trust in Hawaii's tourism and entertainment industries. Hidden fees have long been a source of frustration for consumers. They erode trust and can deter individuals from attending events, ultimately harming both consumers and businesses. By ensuring that all fees are disclosed upfront, SB 1035, SD2 will empower consumers to make informed decisions based on the full cost of attendance, promote fair competition by creating a level playing field where ticket prices and hotel rates reflect their true value, and enhance trust between consumers, businesses, and the tourism industry.

A transparent pricing system can lead to increased attendance at events, benefiting not only promoters but also local businesses such as restaurants, hotels, and retailers. This ripple effect contributes to the overall economic vitality of our state. Implementing SB 1035, SD2 is a necessary step toward fairer practices in the ticketing and travel industries. It aligns with our shared goal of fostering a vibrant and trustworthy consumer environment in Hawaii.

I respectfully urge the committee to pass this bill, reinforcing our commitment to consumer rights and the continued growth of our cultural and tourism landscape. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Bartalini', with a long horizontal flourish extending to the right.

Rick Bartalini  
President, Rick Bartalini Presents, LLC

**SB-1035-SD-2**

Submitted on: 3/17/2025 10:51:06 AM

Testimony for CPC on 3/18/2025 2:05:00 PM

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

Comments:

To: Rep. Scot Z. Matayoshi, Chair

Rep. Cory M. Chun, Vice Chair

Members of the Committee on Consumer Protection & Commerce

Date: Tuesday, March 18, 2025

Time: 2:05 p.m.

Place: Conference Room 329

State Capitol

415 South Beretania Street

**Comments on SB 1035 SD2**

I am an attorney for American Express Company, and I respectfully submit comments on SB 1035 SD2, which: (1) Prohibits businesses from offering, displaying, or advertising the price of a live-event tickets or short-term lodging without clearly and conspicuously disclosing the maximum total of all fees or charges, subject to certain conditions; (2) 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; and (3) 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.

This bill is meant to address concerns about “drip pricing,” and “hidden” or “junk” fees, which are at the core of state and federal legislative attempts to protect consumers from opaque pricing models in online and in-person commerce across the nation, particularly in live-event ticketing and short-term lodging.

I would suggest, however, that this Committee consider amending the proposed definition of “Total price” in Section 2 of the bill to read as follows (new language in bold):

"Total price" means the maximum total of all fees or charges , **including any additional amount imposed on the transaction relating to any form of payment that may be chosen,** that a consumer would pay for any good or service; provided that government charges, shipping charges, and fees or charges for any optional goods or services may be excluded."

The rationale for such additional language to protect against unreasonable surcharging on customer-chose payment methods is as follows:

#### Consumer Protection Concerns

- Risk of businesses exceeding reasonable surcharge amounts
- Limited oversight mechanisms for ensuring compliance with surcharge caps

#### Price Transparency

- Late-stage surcharge disclosure disrupts informed consumer decision-making, especially for larger ticket items like lodging or ticket sales where people may need to plan ahead if using an alternative payment method (e.g. cash, most people don't carry that much cash on an everyday basis)
- Given that these purchases are likely to be made online, cash would not be a viable alternative, so as a practical matter, non-cash payment methods are the likely forms of payment available.
- Even with proper disclosure, it creates mental math burden on consumers trying to compare prices
- The practice fragments the true cost of goods across base price and various fees, making budgeting more difficult

- For short term lodging, a credit card may be required to hold the reservation. It seems particularly unfair to then penalize a consumer with a surcharge for using a credit card.

#### Security and Consumer Rights

- Credit cards offer crucial fraud protection and purchase protection benefits
- Surcharges essentially tax consumers for choosing more secure payment methods
- Consumers shouldn't be penalized for using payment methods that protect their rights
- Consumers and small businesses may need to use credit cards to purchase necessary goods/services, due to lack of access of cash, and should not be penalized for it, and for the purchases at issue here (live event ticket sales and short term lodging), cash would not be a viable payment option.

Thank you for your consideration.



AMERICAN HOTEL & LODGING ASSOCIATION



March 17, 2025

Representative Scot Z. Matayoshi, Chair,  
Representative Cory M. Chun, Vice Chair,  
and Members of the Committee on Consumer  
Protection & Commerce

Hearing: House Committee on Consumer Protection & Commerce  
Date: Tuesday, March 18, 2025  
Time: 2:05 p.m.  
Place: Conference Room 329 & Videoconference  
State Capitol  
415 South Beretania Street

Testimony in Support of SB 1035, SD2  
Relating to Consumer Protection

Aloha Chair Matayoshi, Vice Chair Chun and Members of  
the Committee on Consumer Protection & Commerce:

Hawaii Hotel Alliance (“HHA”) and American Hotel & Lodging Association (“AHLA”) believe fully transparent pricing from the outset of a consumer's transient accommodations booking in Hawai'i is paramount to their proper experience of aloha, which is why we are proud to support SB 1035, SD2.

SB 1035, SD2 aligns Hawai'i with the industry-supported Federal Trade Commission's Final Rule on Unfair or Deceptive Fees governing short-term lodging rates and live-ticket events set to be effective May 12, 2025.

Under the final FTC Rule, all hotels, motels, short-term rentals, online travel agencies, metasearch sites, short-term rental platforms, and other entities that offer, list, advertise, or display transient accommodations must transparently disclose all mandatory fees or charges in the initial advertised price and then include government-imposed taxes and fees at the point of sale.

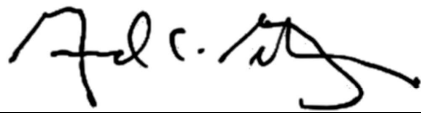
Importantly, SB 1035, SD2 would enshrine the FTC Rule into statute and ensure Hawai'i consumers are protected from undisclosed mandatory fees regardless of actions taken at the federal level.




Several hotel brands have already shifted to upfront display of resort and other mandatory fees rather than prior to the finalization of a booking transaction. The FTC Rule and SB 1035, SD2 brings parity to the lodging industry, which is critical to ensure that a consumer experiences the same pricing transparency, no matter the transient accommodations type or distribution channel.

For these reasons, HHA and AHLA are proud to support SB 1035, SD2 and thank the Senators for bringing this important measure forward.

Hawaii Hotel Alliance

By   
Gerard Gibson  
President

American Hotel & Lodging Association

By   
Kekoa McClellan for The American Hotel &  
Lodging Association  
Principal, The McClellan Group