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OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 12, 2025
9:32 a.m.
Conference Room 229 & Videoconference
State Capitol
415 South Beretania Street**

**On the following measure:
S.B. 985 RELATING TO CONSUMER PROTECTION**

WRITTEN TESTIMONY ONLY

Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is James Evers, and I am an enforcement attorney with the Department of Commerce and Consumer Affairs' (DCCA) Office of Consumer Protection (OCP).

The Department offers comments on this bill.

The purpose of this bill is to:

(1) Establish a new gift card fraud law, under the scope of unfair and deceptive practices law, which requires merchants and third-party gift card resellers to take certain steps to prevent gift card scams;

(2) Require the conspicuous provision of information regarding terms and conditions of gift certificates, regardless of whether the cards are sold in person, electronically, or telephonically; and

(3) Extend from two years to four years the minimum redemption period for paper gift certificates.

Gift Card Draining. S.B. 985 is primarily intended to address the practice of “gift card draining” caused by theft. It is not clear why the bill, rather than seeking enhanced criminal penalties for those actual stealing gifts cards, builds off the assumption that the matter is better dealt with by tasking merchants with heightened duties aimed at theft prevention. Modification of the penal code to enhance the deterrent effect of criminal prosecution might work better. OCP is aware of reports indicating that transnational criminal actors are behind gift card draining.

Merchant Requirements. S.B. 985, in section 481B-B, seeks to impose upon all merchants packaging and protection requirements aimed toward theft prevention, with standing to enforce noncompliance granted to OCP, a civil law enforcement agency, the Department of the Attorney General, or a consumer. See HRS sec. 480-2(d). Enforcement may lead to confusion in the courts since theft prevention is not the same as unfair or deceptive acts prohibited by HRS chapter 480, as defined by Hawaii courts.

Lack of Statistics. OCP is currently unaware of available data to justify the measures on all merchants. It is unclear how widespread “gift card draining” is in Hawai‘i. Consumers frequently buy gift cards in amounts of \$20, \$50, or \$100. The proposed fix might be disproportionate to the problem, possibly discouraging merchants from selling gift cards.

Record-Keeping Duty. Section 481B-E of the bill requires merchants to keep detailed records of gift card sales. OCP supports this provision as it would lend itself to broader reforms, such as requiring that gift card proceeds be held in trust for the consumers’ benefit. OCP most frequently encounters gift card problems in the context of businesses that close or file bankruptcy. Such records would help to ensure that consumers can recoup card value if merchants go out of business.

Litigation Incentives. The bill presupposes that the risk of civil litigation will sufficiently incentivize merchants to prevent theft. Merchants may be equally incentivized, however, if the bill simply required the gift card issuer to honor the card’s value for the buyer, even if the credit was stolen.

Summary. While the bill seems well-intended, the problems with gift cards and gift card theft are complex, with reports indicating that gift card theft is perpetrated by transnational criminal actors. The costs associated with the bill may result in merchants severely limiting sales of gift cards.

Thank you for the opportunity to testify on this bill.

In Support and Testimony Letter Regarding SB985

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

February 9, 2025

Aloha Senator Chair Keohokalole and Senator Fukunaga Chair:

This letter is in support of establishing a new gift card fraud law in the State of Hawaii.

As a victim of “Gift Card Fraud”, it is a terrible feeling of anguish, violation, and embarrassment. I always thought this would happen to me. I was so wrong, and apparently I am luckier than most victims.

Many of my friends have been victim to this gift card scam, not knowing the extent of thieves taking their victims for their hard earned money.

I am in support of establishing a new gift card law, requiring merchants and third party gift card reseller to take certain precaution to prevent gift card scams, and provide packing these cards. Regardless if sold in person, electronically, or by phone. A term of a 4-year extension for paper certificates to redeem.

I appreciate your time and support, and please pass this bill SB985

Mahalo nui, Rosie

SB-985

Submitted on: 2/9/2025 8:06:44 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
CHADLYN HIRATA	Individual	Support	Written Testimony Only

Comments:

internet scams have become popular, and while the "younger generations" know what to look out for, I worry about the older victims who often fall victim to these types of scams. So I support this bill.

SB-985

Submitted on: 2/8/2025 7:52:37 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Kamalei Davis	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am writing in support of SB985.

it's important to safeguard gift card purchases when they are so frequently used. It should be a guarantee that any gift cards purchased will not result in a scam.

SB-985

Submitted on: 2/9/2025 4:10:39 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Gene Ross K. Davis	Individual	Support	Written Testimony Only

Comments:

Aloha Senators, I support SB985 and humbly ask for your consideration in supporting this consumer protection bill.

SB-985

Submitted on: 2/10/2025 7:55:30 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Faith Tuipulotu	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am in support of SB985.

Mahalo, Faith Tuipulotu

SB-985

Submitted on: 2/10/2025 8:12:40 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Iolani Kuoha	Individual	Support	Written Testimony Only

Comments:

BILL No: SB985 Individual: Iolani Kuoha

In Support and Testimony Letter Regarding SB985

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

February 10, 2025

Aloha Senator Chair Keohokalole and Senator Fukunaga Chair:

This letter is in support of establishing a new gift card fraud law in the State of Hawaii.

As a victim of “Gift Card Fraud”, it is a terrible feeling of anguish, violation, and embarrassment. I always thought this wouldn’t happen to me. I was so wrong, and apparently I am blessed than most victims.

Many of my friends and families have been victims to this gift card scam, not knowing the extent of thieves taking their victims for their livelihood.

I am in support of establishing a new gift card law, requiring merchants and third party gift card reseller to take certain precaution to prevent gift card scams, and provide packing these cards. Regardless if sold in person, electronically, or by phone. A term of a 4-year extension for paper certificates to redeem.

I appreciate your time and support, and please pass this bill SB985

Mahalo,

Iolani Kuoha

SB-985

Submitted on: 2/10/2025 10:53:28 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Alexa VT Dudoit	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Alexa vT Dudoit, and I would like to encourage you to support Bill 985. This bill provides essential protections for individuals in our state. It is unprecedented and I believe it is crucial to pass this legislation to ensure security for our residents.

Thank you.

**TESTIMONY OF TINA YAMAKI, PRESIDENT OF THE RETAIL MERCHANTS OF HAWAII
FEBRUARY 12, 2025
SB 985 RELATING TO CONSUMER PROTECTION.**

Aloha, Chair Keohokalole members of Senate Committee on Commerce & Consumer Protection. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

While we appreciate the intent of SB 985, we respectfully oppose this bill as it is currently written. This measure establishes a new gift card fraud law, under the scope of unfair and deceptive practices law, which requires merchants and third-party gift card resellers to take certain steps to prevent gift card scams; requires the conspicuous provision of information regarding terms and conditions of gift certificates, regardless of whether the cards are sold in person, electronically, or telephonically; and extends the minimum redemption period for paper gift certificates to 4 years.

Gift card fraud is a serious issue that affects consumers, retailers, and the broader gift card industry. Organized retail crime rings and transnational fraud networks exploit vulnerabilities in existing laws, using increasingly sophisticated methods to manipulate gift cards and deceive customers. However, the proposed legislation focuses on imposing additional requirements on merchants and third-party gift card resellers rather than addressing the real problem: the criminals perpetrating these schemes.

Despite the efforts of card issuers, retailers, and law enforcement, fraudsters continuously adapt their tactics, circumventing existing safeguards and defrauding unsuspecting consumers. We need to strengthen protections, enhance law enforcement capabilities, and impose clear criminal penalties for those engaged in gift card fraud.

Gift card scams take many forms, including tampering with physical cards, tricking victims into purchasing and transferring gift card balances under false pretenses, and stealing redemption information to make unauthorized purchases. The scale of the problem is alarming. Criminal enterprises use gift card fraud to finance illicit activities, including fentanyl production and distribution, human trafficking, and illegal migration. Industry has partnered with Homeland Security Investigations through **Project Red Hook**, an initiative that has already led to 150 arrests since its launch in January 2024. Fraudsters often purchase goods with stolen gift card balances and resell them on the secondary market, making it difficult for law enforcement to track and prosecute offenders under current laws.

Retailers and gift card issuers are actively working to disrupt fraudulent schemes through:

- **Advanced Technology:** Cutting-edge technologies are being deployed, including point-of-sale activation protections, encrypted QR codes, dynamic PINs, and real-time fraud monitoring systems, cameras, and license plate recognition systems to detect fraud and scams before cards reach consumers.
- **Employee Training:** Retailers are proactively training employees to identify gift card scams and assist consumers in spotting signs of fraud or gift card tampering.
- **Public Education Campaigns:** Educating consumers about gift card fraud, encouraging them to check for signs of tampering, and report any suspicious activity.



- **Innovation and Security:** Introducing innovative solutions, tamper warnings, and activation protocols to ensure sensitive information remains protected until activation.

The best way to combat gift card fraud is to empower law enforcement and prosecutors with the necessary tools to aggressively pursue and hold fraudsters accountable. Without stronger criminal penalties and enforcement mechanisms, the proposed measures will have limited impact on deterring organized crime operations.

Retailers are already working closely with law enforcement to pilot best practices that have been proven effective in reducing fraud. Some of the most promising innovations being explored could be prohibited under the bill's restrictive packaging and technology requirements. Instead of mandating ineffective and costly measures, the focus should be on supporting industry-led strategies that have demonstrated success. Requiring additional packaging and security layers that do not align with best practices will increase costs unnecessarily, potentially limiting the availability of low-denomination gift cards that are popular among consumers.

Rather than placing the burden on retailers and third-party resellers, we urge the Legislature to focus on amending criminal statutes to:

- **Criminalizing Gift Card Tampering:** Enacting laws that enable law enforcement to target and dismantle organized fraud rings more effectively as well as classify gift card tampering as a crime and assign the greatest value to stolen open-loop cards to ensure consumers retain access to secure and trusted gift card products.
- **Enhancing Law Enforcement Training:** Supporting legislation that provides law enforcement with resources and training to recognize and combat gift card tampering fraud effectively, including education on criminal tactics and best practices for investigation and prosecution.
- **Criminalizing the Unauthorized Use of Gift Cards:** Increase penalties for those who commit large-scale gift card fraud by establishing clear penalties for the unauthorized receipt and use of stolen gift card redemption information, addressing gaps in current state laws that make prosecution difficult as well as
- **Targeting Victim-Assisted Schemes:** Ensuring law enforcement has the authority to prosecute fraudsters who deceive victims into providing gift card redemption information under false pretenses.

Retailers are committed to consumer protection and are actively working with law enforcement to combat fraud. However, this bill as written would not effectively deter criminals and may instead create unnecessary costs and barriers for both businesses and consumers. We respectfully urge the Committee to oppose this measure and instead prioritize legislative efforts that directly address the criminal activities driving gift card fraud.

Mahalo again for this opportunity to testify.



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**The State Legislature
Senate Committee on Commerce and Consumer Protection
Wednesday, February 12, 2025
Conference Room 229, 9:32 a.m.**

LATE

TO: The Honorable Jarrett Keohokalole, Chair
FROM: Keali'i S. López, State Director
RE: Support for S.B. 985 Relating to Consumer Protection

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee:

I am Keali'i Lopez, State Director for AARP Hawai'i. AARP is a nonprofit, nonpartisan, social impact organization dedicated to empowering people 50 and older to choose how they live as they age. We advocate at the state and federal level for the issues that matter most to older adults and their families. On behalf of our nearly 135,000 members statewide, thank you for the opportunity to share our testimony.

AARP is in support of S.B. 985 which among other provisions establishes a new gift card fraud law, under the scope of unfair and deceptive practices law, which requires merchants and third-party gift card resellers to take certain steps to prevent gift card scams. This bill is an important step in protecting consumers, particularly older adults, from the risks associated with gift card scams.

Consumer protections are crucial for older adults as they often face unique circumstances making them targets for fraud and exploitation. Robust consumer protections, such as those proposed in S.B. 985 help safeguard their financial well-being by ensuring transparency, fairness, and accountability. These protections also provide avenues for recourse and support, empowering older adults to safely engage in their community with confidence.

Scammers steal billions of dollars from unsuspecting consumers every year. The impact on victims and their families is wide reaching and can be financially and emotionally devastating, especially for older adults. Gift cards are frequently used as a payment method for fraud criminals. A 2022 AARP survey revealed that 1/3 of U.S. adults have been asked to purchase a gift card to pay a debt or obligation (which is always a scam) and nearly 1/4 of these individuals followed through with the request. That equals about 13 million U.S. adults ages 18 or older, and about 2 million 50+ adults. According to the FTC, consumer-reported scams involving gift cards

as the form of payment led to losses of \$217 million in 2023. Criminals prefer these cards because they are readily available and most have high load limits. Retailers have inconsistent – and sometimes nonexistent – policies for spotting and intervening with consumers under duress.

Additionally, though not specific to only gift card scams, it is important to note that according to a 2023 FBI report, Hawai'i was ranked 44th for the number of complaints reported. Despite this, Hawai'i ranked 26th for complaints per capita and alarmingly 13th for losses per capita (per 100,000 citizens). This starkly highlights the vulnerability of Hawai'i consumers and underscores the critical need to provide robust safeguards.

By establishing a new gift card fraud law, the Hawai'i state legislature will provide robust safeguards by ensuring merchants and third-party gift card resellers are required to prevent and detect fraud, thereby protecting consumers.

Thank you for the opportunity to testify in support of S.B. 985.

LATE

SB-985

Submitted on: 2/10/2025 4:53:44 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Virginia Mendoza	Individual	Support	Written Testimony Only

Comments:

I support SB985 because my family who reside in Hawaii have been impacted by these actions. It would be very helpful to the people of Hawaii and my family if this bill was passes.

Respectfully

Virginia Mendoza

LATE

SB-985

Submitted on: 2/10/2025 5:03:51 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Ardi M Maioho	Individual	Support	Written Testimony Only

Comments:

I am in support of SB 985 that the law for gift cards should be updated to protect consumers from being scammed n cheated. Making the merchants n 3rd party sellers more accountable when they sell these cards. I am a former Law Enforcement officer I know only too well how innocent consumers get ripped off so easily n laws like this will be a great help to protect us.

SB-985

Submitted on: 2/10/2025 5:47:51 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Robert Castro	Individual	Support	Written Testimony Only

Comments:

Dear Senator Keohokalole, I am supporting SB 985. THANK YOU for your time. Regards
Robert Castro

LATE

SB-985

Submitted on: 2/10/2025 7:15:49 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Lesley Flores	Individual	Support	Written Testimony Only

Comments:

Supporting family in Hawaii.

LATE

SB-985

Submitted on: 2/10/2025 7:50:51 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Sergio Quiroz	Individual	Support	Written Testimony Only

Comments:

I have family on the island of Molakai and I am issuing my support for SB985

LATE

SB-985

Submitted on: 2/10/2025 8:03:19 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Paige Dionne Bringetto	Individual	Support	Written Testimony Only

Comments:

I have family that live on the island of Molokai in which this legislation greatly effects. I am issuing my full support of SB985.

Thank you

Paige Bringetto

SB-985

Submitted on: 2/10/2025 7:52:50 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
ELISA M FLORES	Individual	Support	Written Testimony Only

Comments:

I have family on the island of Molakai and I am issuing my support for SB985.

SB-985

Submitted on: 2/10/2025 8:49:45 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Sherry Sasada	Individual	Support	Written Testimony Only

Comments:

I am in support of Senate Bill 985 regarding gift cards.Mahalo!

LATE

SB-985

Submitted on: 2/11/2025 12:32:50 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Rochelle Castro	Individual	Support	Remotely Via Zoom

Comments:

Aloha Senator Keohokalole,

I am writing to express my support for SB 985, a critical component of legislation aimed at combating the rampant gift cards scams that have devastated countless lives in Hawaii. These scams have led to financial ruin, identity theft, and, tragically, the loss of life. It is imperative that we act decisively to protect our citizens. Especially our elderly vulnerable population.

In 2024, thieves stole more than \$100 million in Hawaii due to gift card scams. These are not just statistics; they represent real people whose lives have been tremendously affected. The emotional and psychological toll on victims is profound, with many experiencing severe distress and in the most tragic cases, suicide.

The perpetrators of these scams are cunning, relentless, targeting individuals of all ages, with a particular interest in our kupuna. They exploit the trust and goodwill of our kupuna, often leading them to deplete their savings.

A Waialeale man reported that his \$480 Walmart gift card was drained without his knowledge, with unauthorized purchases made in Massachusetts. A Honolulu woman lost \$500 to a gift card scam, highlighting the personal and financial devastation these crimes can cause. They are a growing epidemic that demands immediate legislative intervention.

This is a crucial step towards safeguarding our residents. By mandating that gift cards be securely encased or stored behind the counter, we can significantly reduce the opportunity for scammers to exploit unsuspecting individuals. This measure aligns with the Federal Trade Commission, which advises against purchasing gift cards to pay for alleged fines, penalties, or taxes.

I ask you to recognize the urgency of this issue and the profound impact it has on our community. Passing Senate Bill 985 will send a clear message that Hawaii stands united against fraud and is committed to protecting its residents from these egregious crimes.

Thank you for your attention to this critical matter.

Mahalo Nui,
Rochelle Castro

SB-985

Submitted on: 2/11/2025 1:13:00 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Faith Blalock	Individual	Support	Written Testimony Only

Comments:

I am in support of this bill and find it is important in protecting our community.

LATE

SB-985

Submitted on: 2/11/2025 3:04:42 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Peter Flores	Individual	Support	Written Testimony Only

Comments:

I have family on the island of Moloka'i, and I am issuing my support for SB985.