
A BILL FOR AN ACT

RELATING TO RESTAURANTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that unauthorized
2 restaurant reservation listings by third-party restaurant
3 reservation services are misleading to consumers and detrimental
4 to restaurant businesses in the State. The legislature also
5 finds that the State has an interest in preventing this
6 substantial misconduct. This Act advances the State's interest
7 by prohibiting third-parties from listing restaurant reservation
8 services without the restaurant's knowledge or prior written
9 consent. The legislature finds that avoiding these harmful
10 effects justify the restrictions imposed by this Act.

11 Accordingly, the purpose of this Act is to:

12 (1) Prohibit third-party restaurant reservation services
13 from listing, advertising, promoting, or selling
14 restaurant reservation services without first
15 obtaining a written agreement from the applicable
16 restaurant authorizing the action; and

17 (2) Establish civil penalties.



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 list, advertise, promote, or sell reservations for a restaurant through the third-party restaurant reservation service's website, mobile application, or other digital platform unless the applicable restaurant agrees in writing for the third-party restaurant reservation service to list, advertise, promote, 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 held invalid.



1 (c) Any person who is charged fees by a third-party
2 restaurant reservation service for a reservation that is listed,
3 advertised, promoted, or sold; or restaurant for which a
4 third-party restaurant reservation service has listed,
5 advertised, promoted, or sold a reservation; in violation of
6 this section may bring a civil action in any court of competent
7 jurisdiction for the following:

8 (1) Injunctive relief to restrain or enjoin any activity
9 in violation of this section;

10 (2) Actual damages; provided that the actual damages shall
11 not exceed the total fees collected by the third-party
12 restaurant reservation service for the subject
13 violation; and

14 (3) Attorneys' fees and costs and any other remedies that
15 the court deems appropriate.

16 (d) Any action alleging a violation of this section shall
17 be brought within one year of the occurrence of the acts alleged
18 to have violated this section.

19 (e) As used in this section:

20 "Restaurant" means a food establishment in which food is
21 provided free of charge or sold to consumers for consumption on



1 or off the premises. "Restaurant" includes dine-in
2 establishments, pushcarts, food stands, and vehicles.

3 "Third-party restaurant reservation service" means any
4 website, mobile application, or other digital platform that:

5 (1) Offers or arranges for reserving on-premises service
6 for a customer at a restaurant; and

7 (2) Is owned and operated by an entity other than the
8 entity that owns the applicable restaurant."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. This Act shall not be applied so as to impair
13 any contracts existing as of the effective date of this Act in a
14 manner violative of the Contract Clause under article I,
15 section 10, of the United States Constitution or the Hawaii
16 State Constitution.

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Restaurants; Reservations; Third-Party Restaurant Reservation Services; Unauthorized; Prohibition; Penalties

Description:

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. Establishes civil penalties. Effective 7/1/2050. (SD1)

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