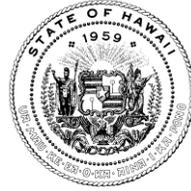


LATE



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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 11, 2026
9:30 a.m.
Via Videoconference
Conference Room 229**

**On the following measure:
S.B. 2797, RELATING TO CONSUMER PROTECTION**

Chair Keohokalole and Members of the Committee:

My name is Dominic Jancaterino, and I am an Enforcement Attorney for the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department appreciates the intent of this bill and offers comments.

Gift card theft involves criminal conduct. "In a typical gift card fraud case, a thief takes the credentials from unactivated gift cards and then puts cards back on the shelves where unsuspecting consumers activate the card, put money into the card and then those funds are stolen. Criminals use special software that alerts them when the card is activated, and then the thief is free to spend the money on the account. One of the major hurdles to prosecution is that unactivated gift cards have no monetary value, making it difficult to charge bad actors who may steal the credentials of 50 or more cards at a time."¹

¹ Int'l Council of Shopping Ctrs., *State Lawmakers Advance Bills That Give Law Enforcement More Tools to Prosecute Gift Card Theft*, ICSC (2025),

Federal law enforcement agencies, such as the Department of Homeland Security, have declared that organized gift card theft rings are often part of larger criminal networks taking part in various illegal activities.²

States that are addressing gift card fraud are empowering criminal prosecutors to prosecute criminals and may in addition be holding merchants accountable to undertake preventive measures mandated by law. In 2024, Ohio became one of the first states to pass a gift card fraud protection law when it enacted Ohio House Bill 366 (OH HB 366).³ The Ohio Legislature passed the bill as part of a larger organized retail crime legislative package. This bill notably included language that classified a gift card as an “access device” that could be treated like a credit or debit card.⁴

In 2025, ten (10) states, namely, Arizona, Arkansas, Florida, Iowa, Kentucky, Louisiana, New Hampshire, North Carolina, Texas, and Utah enacted gift card fraud protection laws modeled after Ohio's 2024 law.⁵ Many of the laws criminalized the use of stolen gift cards even before they are activated, allowing prosecutors to charge individuals who use funds from stolen gift cards as part of organized retail crime networks.

Comprehensively addressing gift card fraud requires solutions that empower criminal law enforcement to go after bad actors. Unlike other gift card fraud legislation around the country, which criminalizes gift card fraud, this bill restricts the remedies available for gift card fraud to the remedies available under Hawaii's UDAP law, which OCP and the Attorney General are tasked with enforcing through civil actions only. The bill also requires OCP to create model notices and issue guidelines regarding gift card fraud.

<https://www.icsc.com/news-and-views/icsc-exchange/state-lawmakers-advance-bills-that-give-law-enforcement-more-tools-to-prosecute-gift-card-theft>.

² U.S. Immigr. & Customs Enf't, *Tackling Gift Card Fraud*, ICE, <https://www.ice.gov/about-ice/hsi/news/hsi-insider/tackling-gift-card-fraud>.

³ H.B. 366, 135th Gen. Assemb., Reg. Sess. (Ohio 2024), <https://www.legislature.ohio.gov/legislation/135/hb366>.

⁴ *Supra*, n.1.

⁵ *Supra*, n.1.

Existing law prohibits gift certificate issuers from charging any service fees, including but not limited to fees for dormancy or inactivity. HRS Section 481B-13(a). Section 3 of this bill may suggest a course reversal on this policy where it imposes requirements on gift certificate issuers to provide information about “any applicable fees.” Page 12, lines 5-6. Including this language may lead to confusion about whether gift certificate issuers may impose fees, since the word “applicable” may suggest that the gift certificate issuer has discretion to choose which fees to “apply.” To clarify that this is not the intention of the Legislature, we offer an amendment.

The amendments in this bill that seek to prohibit changes to gift certificate terms and conditions unless they benefit the consumer are laudable; however, this amendment could be further strengthened to deter issuers from evading this consumer protection. Gift certificate issuers may attempt to evade this protection by including a term in their general terms and conditions that by using or purchasing a gift card, the user or purchaser agrees to waive the protections of the law prohibiting changes to the terms and conditions. This attempted evasion of the consumer protections can be deterred if this waiver is excluded.

Should the Committee wish to pass this bill, we respectfully request the following amendments:

- 1) Review and strengthen, as appropriate, the laws available to criminally prosecute gift card fraud;
- 2) On Page 12, line 6, replace the phrase “any applicable fees” with the phrase “any fees authorized by law” in order to preserve existing consumer rights and the prohibition against gift certificate issuers charging service and inactivity fees for gift certificates; and
- 3) Add appropriate language at Page 12, end of line 19, that any waiver or attempted waiver of the protections by this section are void.

Thank you for the opportunity to testify on this bill.



TESTIMONY OF DAVE ERDMAN, PRESIDENT & CEO
RETAIL MERCHANTS OF HAWAII
FEBRUARY 6, 2026
**IN OPPOSITION TO SB 2797 RELATING TO CONSUMER PROTECTION – GIFT
CARD FRAUD**

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

My name is Dave Erdman, and I am the Interim President and CEO of Retail Merchants of Hawai'i (RMH), a statewide trade association representing retailers, shopping centers, restaurants operating within retail environments, and allied businesses across Hawai'i.

Retail Merchants of Hawai'i respectfully submits testimony in opposition to SB 2797.

RMH strongly supports protecting consumers and addressing the growing problem of gift card fraud. Retailers share this concern and are often the first to assist customers who have been victimized by these scams. However, SB 2797 places new and significant responsibilities on retailers and third-party resellers without directly addressing the organized criminal activity that drives gift card fraud.

Gift card fraud is primarily the result of sophisticated criminal schemes involving theft, tampering, and social engineering. These crimes are committed outside of retailers' control, yet SB 2797 shifts the burden of prevention, compliance, and liability onto merchants that are already victims of these same crimes.

SB 2797 would require retailers to adopt prescribed display and storage methods for gift cards, comply with packaging standards, post specific notices, and train employees in accordance with guidelines issued by the Office of Consumer Protection. These requirements apply across in-person, online, and telephonic sales. While well-intentioned, these mandates impose real operational costs and logistical challenges, particularly for small and mid-sized retailers, mall tenants, kiosks, and seasonal or high-turnover businesses.

Unlike prior versions of this legislation, SB 2797 takes effect upon approval. For many businesses, especially those operating on narrow margins, these changes would be difficult to implement quickly and could disrupt normal operations.

The bill also places these requirements within Hawai'i's unfair and deceptive practices framework, increasing the risk of enforcement actions and private litigation. Even

retailers making good-faith efforts to comply could face liability for technical or inadvertent violations. This approach risks penalizing legitimate businesses rather than deterring criminal behavior.

Retailers are already taking meaningful steps to combat gift card fraud. These include investing in tamper-resistant packaging, implementing point-of-sale warnings, training employees to recognize scam indicators, educating customers, and cooperating with law enforcement investigations. These strategies continue to evolve as criminal tactics change. A rigid statutory scheme may limit flexibility and unintentionally reduce the availability or convenience of gift cards for consumers.

RMH believes a more effective policy response would focus on strengthening criminal penalties for gift card tampering and fraud, enhancing law enforcement tools and resources, and supporting coordinated efforts to disrupt organized theft and fraud networks. Targeting the criminals responsible for these schemes, rather than imposing additional mandates on retailers, will better protect consumers while avoiding unintended harm to Hawai'i's retail sector.

For these reasons, Retail Merchants of Hawai'i respectfully opposes SB 2797 and urges the Committee to reconsider this approach in favor of solutions that directly address criminal activity and recognize the practical realities faced by retailers.

Thank you for the opportunity to submit testimony.

Respectfully submitted,

Dave Erdman
Interim President & CEO
Retail Merchants of Hawai'i



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The Thirty-Third State Legislature
Senate Committee on Commerce and Consumer Protection
February 11, 2026
Conference Room 229, 9:30 a.m.

TO: The Honorable Jarrett Keohokalole, Chair
FROM: Keali'i S. López, State Director
RE: Support for S.B. 2797 – Relating to Consumer Protection

Aloha Chair Keohokalole 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 fifty and older to choose how they live as they age. We advocate for the issues that matter most to older adults and their families. On behalf of our 135,000 members, thank you for the opportunity to share our testimony.

AARP Hawai'i is in support of SB 2797, which strengthens protections for consumers—particularly older adults who are disproportionately targeted by gift-card scams.

There is a significant rise in gift-card draining, where scammers steal cards from store displays, record card and PIN numbers, then return the cards to shelves; once purchased and activated by unsuspecting consumers, the scammers immediately drain the card value. This trend has increased post-pandemic and has contributed to substantial financial losses for Hawai'i residents.

AARP Hawai'i supports SB 2797 because it includes several meaningful and practical updates:

1. Establishes a new gift-card fraud law

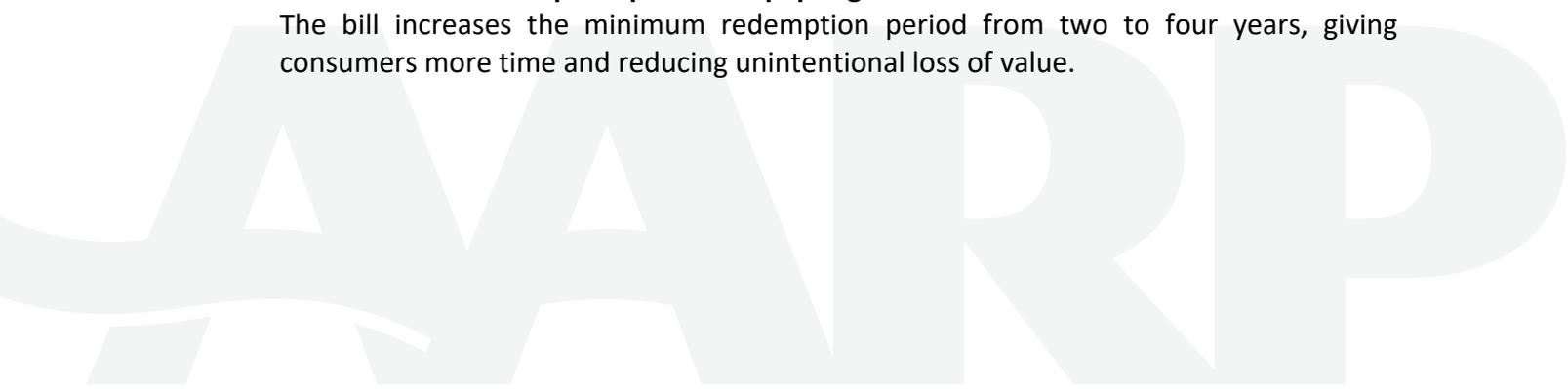
The bill creates a framework within Hawai'i's unfair and deceptive practices statutes requiring merchants and third-party gift-card resellers to take steps that help prevent gift-card scams.

2. Improves transparency for consumers

SB 2797 requires that gift-card terms and conditions be displayed conspicuously—whether cards are sold in person, electronically, or over the phone—helping consumers recognize limitations and avoid misleading practices.

3. Extends the redemption period for paper gift certificates

The bill increases the minimum redemption period from two to four years, giving consumers more time and reducing unintentional loss of value.



AARP Hawai'i believes SB 2797 is an effective and targeted measure because it addresses vulnerabilities where scams are most likely to occur—at the point of sale and in the lack of clear information available to consumers. By modernizing state law, improving transparency, and requiring more consistent safeguards from sellers, this measure will help protect Hawai'i's kūpuna and all consumers from preventable financial harm.

Thank you for the opportunity to testify in support of this measure.



LATE

Mike Palmer, Chair – Ho'okipa Partners **Ryan Ko**, Vice Chair – Westman Corporation
Andy Huang, Past Chair – L&L Hawaiian Barbecue **Victor Lim**, Government Relations Lead – McDonald's
Address: 2909 Wai'ala'e Avenue #22, Honolulu, HI 96826 | Office: 808-944-9105

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Date: February 10, 2026
To: Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, vice Chair
Committee on Commerce and Consumer Protection
From: Victor Lim, Legislative Lead
Subject: SB 2797 Relating to Consumer Protection

The Hawaii Restaurant Association supports the intent of SB 2797 to strengthen the unfair and deceptive practices law to prevent gift card scams.

Gift cards are essential for Hawaii consumers, widely used for gifting, charitable support, and as convenient cash alternatives. Protecting access to them matters.

Restaurant and Retailers already invest heavily in fraud prevention, including tamper-resistant materials, activation safeguards, encrypted codes, employee training, and consumer education. These flexible tools allow the industry to adapt quickly as criminal tactics evolve.

Stronger criminal penalties are what will deter these actors. Targeted criminal enforcement, including criminalizing tampering, enhancing penalties, improving law enforcement training, and closing gaps that make prosecution difficult today.

These measures focus on the actual perpetrators and reinforce the fraud-prevention work already underway.

Thank you for giving us this opportunity to share our views.