

ACT 143

H.B. NO. 2379-78

A Bill for an Act Relating to the Sale of Artistic Prints.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Title 26, Hawaii Revised Statutes, is amended by the addition of a new Chapter to read as follows:

**“CHAPTER —
SALE OF FINE PRINTS**

Sec. -1 Definitions. Whenever used in this chapter, unless the context otherwise requires:

(1) “Artist” means the person who conceived or created or conceived and created the master image for, or which served as a model for, the print.

(2) "Edition" means the number of fine prints made from the plate during a single run.

(3) "Fine print" or "print" means the product created by an artist by a process commonly used in graphic arts including but not limited to engraving, etching, woodcutting, lithography or serigraphy.

(4) "Impression" means the printed image on suitable material, whether paper or any other substance, made off the plate by printing, stamping, casting or any other process commonly used in the graphic arts.

(5) "Plate" includes any "plate, stone, block or other material" used for the purpose of creating the print from which the impression or impressions were taken.

(6) "Proof" means the impression made from a process commonly used in graphic arts for the purpose of correction and examination prior to producing fine prints.

(7) "Reproduction" means a copy of an original print made by a commercial mechanical process which does not require the use of the plate.

(8) "Signed fine print" means an original print signed by the artist signifying examination and approval by the artist and does not refer to a plate containing the signature of the artist.

Sec. -2 Exemptions. This chapter shall not apply to:

(1) Prints which are sold prior to the effective date of this chapter;

(2) Prints which are clearly and conspicuously described as reproductions and which are not alleged to be signed, numbered, or limited editions or any combination thereof.

Sec. -3 Acts prohibited; disclosure.

(a) No catalogue, prospectus or circular offering fine prints for sale in this State shall be knowingly published or distributed, or both, unless it clearly and conspicuously discloses the relevant informational detail concerning each edition of such prints so offered set forth in section -4.

(b) If the person offering such prints by means of such publication disclaims knowledge as to any relevant detail referred to in section -4, he shall so state specifically and categorically with regard to each such detail to the end that the purchaser is able to judge the degree of uniqueness or scarcity of each print contained in the edition so offered. Describing the edition as an edition of "reproductions" eliminates the need to furnish further informational details unless such edition was allegedly published in a signed, numbered, or limited edition, or any combination thereof, in which case all of the informational details are required to be furnished.

(c) No fine print or print shall be knowingly offered for sale or sold in this State by any person, at wholesale or at retail, unless a written invoice or receipt for the purchase price or a certificate furnished to the purchaser clearly and conspicuously discloses all of the relevant informational details required under section -4.

- (d) If the seller disclaims knowledge as to any relevant detail referred to in section -4, he shall so state specifically and categorically with regard to each such detail to the end that the purchaser is able to judge the degree of uniqueness or scarcity of such fine print or print. Describing the print as a "reproduction" eliminates the need to furnish informational details unless it was allegedly published in a signed, numbered, or limited edition, or any combination thereof, in which case all of the informational details are required to be furnished.

Sec. -4 Informational detail. The following informational detail shall be required:

- (1) The name of the artist and the year when the fine print or print was printed;
- (2) Exclusive of proofs, whether the edition is being offered as a limited edition, and if so:
 - (A) The authorized maximum number of signed or numbered impressions, or both, in the edition;
 - (B) The authorized maximum number of unsigned or unnumbered impressions, or both, in the edition;
 - (C) The authorized maximum number of artist's, publisher's, printer's or other proofs, if any, outside of the regular edition; and
 - (D) The total size of the edition.
- (3) Whether the plate has been destroyed, effaced, altered, defaced or canceled after the current edition;
- (4) If there were any prior fine print or print of the same impression, utilizing a different process, media, color, or color scheme, the total number of such fine print or print and designation of such fine print or print;
- (5) If there were any prior or later editions from the same plate, the series number of the subject edition and the total size of all other editions;
- (6) Whether the edition is a posthumous edition or restrike and, if so, whether the plate has been reworked;
- (7) The name of the workshop, if any, where the edition was printed.

Sec. -5 Action for damages and penalties. (a) Any person who sells a fine print or print who fails to disclose the information required by section -4 shall be liable to the purchaser thereof in an amount equal to the purchase price of the fine print or print.

(b) A person who sells a fine print or print who wilfully fails to disclose the information required by section -4 shall be liable to the purchaser thereof in the amount of \$1,000.00 or in an amount equal to three times the purchase price of the fine print or print, whichever is greater.

(c) No action shall be maintained to enforce any liability under this section unless the person who is injured by the failure to disclose shall have returned the fine print or print to the person violating this chapter and the action is brought within one year after discovery of the violation upon which it is based and in no event more than three years after the fine print or print was sold."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1978.)