

A Bill for an Act Relating to Unfair and Deceptive Trade Practices.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER ACTIVITY PROVIDERS

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

“Activity desk” means an individual, firm, corporation, association, partnership, or any group of persons, whether incorporated or not, which, as an intermediary, sells, contracts for, arranges, or advertises that it can or will arrange, or has arranged, activities which are furnished by an activity provider.

“Activity provider” means an individual, firm, corporation, association, partnership, or any group of persons, whether incorporated or not, which provides specialized air, land, or sea tour excursions and activities.

§ -2 **Prohibited acts.** No activity desk shall engage in any of the following practices:

- (1) Covering, concealing or obscuring the name, address, or telephone number of an activity provider in any card or brochure; and
- (2) Placing a telephone number, address, or other information on any card, brochure or other advertising material produced or published by an activity provider, whether by decal, sticker, stamp or otherwise, without identifying the activity desk by name.

§ -3 **Payment provision.** Unless the express written contract has a provision to the contrary, payment is due and payable forty-five days from the date of invoice.

§ -4 **Legal rate; computation.** Except as otherwise permitted by existing written contract, any activity desk who directly or indirectly receives any interest on the payment due to the activity provider, shall remit the interest and the payment due to the activity provider; provided that if the interest and payment due are not remitted within forty-five days from the date of invoice, interest on the unpaid balance of the interest and payment due shall accrue at the rate of one per cent per month from the due date.

§ -5 **Injunctive relief; suits.** (a) Any activity provider is entitled to injunctive relief and may sue in any circuit court of the state in the circuit in which the defendant resides or has an agent.

(b) If the court determines that the action was brought frivolously, for purposes for harassment, or in implementation of any scheme in restraint in trade, it may award court costs, reasonable attorneys fees.

(c) The prevailing party, in a civil action brought under the provisions of this chapter, shall be entitled to recover the cost of defending the suit, including a reasonable attorney's fee.

§ -6 Action for damages. Any activity desk shall be liable to the activity provider for a violation of this chapter for any damages which result from such violation and in no event for an amount less than \$1,000.00 for each violation.

§ -7 Exemptions. This chapter shall not apply to any person whose principal business is the sale of travel services as a travel agency, as defined in chapter 468K, or any travel agency appointed to do business as a travel agency by the Airlines Reporting Corporation, nor shall it apply when an activity provider performs activity desk operations for its own excursions or activities.”

SECTION 2. This Act shall take effect upon its approval, and shall be repealed June 30, 1991.

(Approved June 25, 1990.)