

ACT 82

H.B. NO. 2020

A Bill for an Act Relating to Prostitution.

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

SECTION 1. The legislature finds that the sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, including activities related to prostitution, pornography, sex tourism, and other commercial sexual services. Prostitution and related activities, which are inherently harmful and dehumanizing, contribute to the trafficking in persons, as does sex tourism. The low status of women in many parts of the world has led to a burgeoning of the trafficking industry. Discouraging sex tourism, which is an estimated \$1,000,000,000-per-year business worldwide, is key to reducing the demand for sex trafficking.

While prostitution is illegal in developing nations that are the primary destination of sex tourism, enforcement efforts are lax because of cultural tolerance, sex tourism is a major component of the local economy, laws target female sex workers rather than male customers, economic opportunities for females are limited, and laws are as much a leverage for extorting bribes from those involved in the sex trade as they are a deterrent to its participants. Developed nations from which the demand for sex tourism originates criminalize the practice, but laws apply only to travel for the purpose of engaging in sex with minors and do not specifically target

the licenses of travel agents. Those who patronize sex tours may contract potentially fatal sexually transmitted diseases while overseas and expose their intimate partners to such diseases upon their return.

The purpose of this Act is to promote and protect the human rights of women and girls exploited by sex tourists. It is also the purpose of this Act to promote and protect the health and welfare of women and children in developing nations who may contract sexually transmitted diseases from sex tourists. In so doing, the legislature forcefully declares Hawaii's unequivocal opposition to any form of sex tourism, whether it is child sex tourism or sex tourism involving adults.

This Act is intended to equip licensing officials with the authority to strip travel agents of their registration if they promote sex tourism and to provide prosecutors with the tools necessary to punish travel agents for engaging in this activity. In addition, this Act is intended to equip prosecutors with the tools they need to punish those who promote sex tourism by making it a class C felony to do so.

SECTION 2. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§712- Promoting travel for prostitution. (1) A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the state.

(2) “Travel services” has the same meaning as in section 468L-1.

(3) Promoting travel for prostitution is a class C felony.”

SECTION 3. Section 468L-7.5, Hawaii Revised Statutes, is amended to read as follows:

“[§468L-7.5] Prohibited acts. No travel agency or charter tour operator shall engage in any of the following:

- (1) Selling or advertising to sell travel or charter tour services without first registering or renewing a registration with the director under this chapter;
- (2) Conducting business as a registered travel agency or charter tour operator without establishing and maintaining a client trust account, in accordance with sections 468L-5, 468L-5.5, and 468L-24 and the rules relating to travel agencies and charter tour operators;
- (3) Failing to provide evidence of the establishment of a client trust account or to notify the department of the name of the financial institution at which the client trust account is held or of any change in the account number or location within three business days of any change, in accordance with section 468L-5 and the rules relating to travel agencies and charter tour operators;
- (4) Making any false statement, representation, or certification in any application, document, or record required to be submitted, filed, or retained under this chapter;
- (5) Misrepresenting the consumer's right to cancel and to receive an appropriate refund or reimbursement as provided under this chapter;
- (6) Failing to provide a written statement to the consumer containing specific information as required by section 468L-4;
- (7) Failing to provide or otherwise comply with the disclosure requirements of sections 468L-6 and 468L-7;
- (8) Failing to make available to the director such books and records as may be requested by the director pursuant to sections 468L-3(6), 468L-5.5,

and 468L-28 and the rules relating to travel agencies and charter tour operators; [ø¶]

- (9) Promoting travel for prostitution;
 (10) Selling, advertising, or otherwise offering to sell travel services or facilitate travel:
 (A) For the purpose of engaging in a commercial sexual act;
 (B) That consists of tourism packages or activities using and offering sexual acts as enticement for tourism; or
 (C) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services;

or

- [~~(9)~~] (11) Otherwise violating any of the provisions of this chapter or its rules.

For purposes of paragraph (10):

“Commercial sexual act” means any sexual contact, as defined in section 707-700, for which anything of value is given to or received by any person.

“Sexual act” means any sexual contact as defined in section 707-700.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 19, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.