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January 27, 2008

House Consumer Protection Committee, Hawaii State Legislature

Testimony of Anthony Ranken on behalf of Richard Dan and Kamaaina Loan, re:

HB 2553, Relating to Pawnbrokers and Secondhand Dealers

Date of Hearing: Monday, January 28, 2008, 2:05 p.m., House Conference Rm. 325

On behalf of Richard Dan, a pawnbroker based on Maui since 1978, and operating throughout the state, I am submitting this testimony regarding H.B. No. 2553. Mr. Dan has testified, proposed legislation and been proactive with most legislation involving pawn or second hand dealers since the late 1970s.

We oppose H.B. No. 2553 in its current form because it imposes an impossible burden on many small businesses, it gives the police chiefs an unacceptable level of control over the internal management of pawnshops and dealers, and its costs and inconvenience outweigh any potential benefit it could achieve.

The phrases "dealer" and "secondhand dealer" are defined in H.R.S. §486M-1. "Dealer" includes anyone "who engages in a business which includes the buying of previously owned article [sic]," and it specifically includes "any secondhand dealer." "Secondhand dealer" in turn is defined to include "any person who trades in secondhand or previously owned articles." Thus the law that is before this committee would cover not only pawn shops, but also many other businesses, including: antique stores, coin shops, E-Bay trading assistants -- a hot new business concept which is springing up all over the islands, golf shops (which routinely buy and sell used sets of clubs), jewelry stores (almost all of which either buy secondhand jewelry and/or accept it as trade-ins), auctioneers, bankruptcy trustees, and even swap meet vendors!

Unless the police departments are planning to engage in illegal selective enforcement of this law, they will have to have a system in place that is useable by all of the above businesses. The bill in its current form appears to give the police chief of each county unlimited power to dictate the exact method that dealers use to report transactions, including requiring them to purchase specific software and install it on their computers.

The police should not be given so much discretion that they can require every swap meet vendor, mom and pop antique store, and golf shop to buy a computer and a \$1000 software package -- only to perhaps be told a year later that the police department has decided to change programs and all users will now have to spend another \$1,500 to keep up with the latest reporting method! We question whether even

the police will have the capability to use the online system with photographs of the pawned items. The police barely have the manpower to handle the current system of reporting. If this online reporting is adopted as well, it will presumably be in addition to and not instead of the current paperwork; the police will still need hard copies, to establish chain of custody and use the items as evidence if the matter ever goes to court. For the police to monitor and oversee the online database, and attempt to control the quality of the pictures submitted and numerous other issues foreseeable and unforeseeable, will tax their resources. As for the pawnbrokers and secondhand goods dealers, many do not currently have computers, internet connections, or sophisticated digital camera equipment and software to upload the pictures.

Electronic reporting is a good idea, and Mr. Dan has already been reporting all his transactions to the Maui police electronically, via his own www.pawnreport.com, since 2001. However, it would be premature to make electronic reporting mandatory for all secondhand dealers, and it would be unduly burdensome to let the police dictate exactly how the information is to be transmitted. If mandatory electronic reporting is to become law, then at least at this stage the method of doing so should remain at the option of the dealer (as it is now) --as long as the information is transmitted in a form that can be accessed and read by the police without the police needing any special software.

We understand that like driving a car, engaging in the secondhand goods business is a privilege, not a right. But that should not give the police the power to dictate what software a secondhand dealer uses in their business, any more than the County driver licensing division can dictate that everyone must drive a Ford.

Moreover, to allow the police to mandate one particular electronic reporting system to the exclusion of others would run counter to the regulatory strategy that has been adopted by this legislature in recent years. In 1998 the legislature amended H.R.S. §486M-4, with our full support, to provide an incentive for dealers to adopt a computerized pawn reporting system. The pawnbrokers such as my client Mr. Dan who have invested time and money in developing and implementing an effective electronic reporting system should not now be penalized by being forced to scrap their system and begin using a new one, at the sole discretion of their local police department. Therefore if any version of H.B. No. 2553 is adopted, it should not state, as this one does in section 2(b), that "the method of submittal shall be at the the option of the chief of police," but should instead allow electronic transmission of the data in any manner compatible with normal data distribution standards.

We believe it would be better at this point for the legislature to use a carrot, not a stick. The police are free to begin implementing a pilot program of electronic reporting. They would not need any new legislation in order to do so. H.R.S. §486M-4(b) authorizes the Honolulu Police Department to create a powerful incentive for dealers to participate in electronic reporting. That law authorizes the police chief to reduce the holding period for pawned or purchased items from 30 days down to 15 days, if "the dealer has computerized record-keeping and transmittal capabilities acceptable to the chief of police or the chief of police's authorized representative." We now recommend that this provision be amended slightly so that the holding period, instead of being "reduced to fifteen calendar days", is "reduced by half." That would change nothing on

Oahu (where the standard holding period is 30 days), but on the outer islands (where the standard holding period is 15 days) it would allow the police chiefs to create an incentive for electronic reporting where there is currently none.

We ask that you not pass any legislation requiring mandatory electronic pawn reporting until the Honolulu Police Department has tested and proven possible reporting methods. This can be done on a trial basis, using the incentive contained in H.R.S. §486M-4(b) (referenced above). Until HPD has shown that it is ready to accept the electronic data, it will not do any good to require dealers to furnish that data. And until HPD is prepared to administer and enforce the requirements of this law evenhandedly in regard to all types of secondhand dealers, it would be unfair and discriminatory to implement the law. For these reasons, this legislation is premature and should be held.

In closing, let us stand back and look at the big picture: The principal goal of this bill is to catch crooks who steal merchandise and attempt to sell it to secondhand dealers and pawnshops. Currently, pawn shops are the only ones that keep records of any real substance regarding the trafficking of secondhand merchandise. Pawn shops obtain identification and detailed information from the customer, pursuant to H.R.S. §486M-2. This information is very useful to the police in apprehending thieves. Potential customers know this, and therefore the dishonest ones go to the other types of secondhand dealers -- the ones who are not following the existing regulations and are not being supervised by the police department as they should be under the law. Because of the current stringent reporting requirements and their selective enforcement against pawn shops, very few pawn transactions currently involve stolen property. There are a myriad of other places where thieves can more safely sell their loot -- swap meets, garage sales, antique stores, jewelry stores, coin shops, etc. Passing ever more burdensome regulations, and enforcing them only against pawn shops, is a simplistic and ineffective reaction to property crime. Clamping down on pawn shops will merely force more stolen merchandise into the hands of the secondhand dealers that the police choose not to supervise, and will make it harder for the victims of theft to recover their property.

Thank you for considering our input on this matter. I reside on Maui and will not be able to fly over for this hearing, but please feel free to call me at any time, if any of you have questions.

Respectfully submitted,



Anthony L. Ranken

January 26, 2008

To: The Honorable Robert N. Herkes, Chair, Consumer Protection and Commerce
The Honorable Angus L.K. McKelvey, Vice Chair
Members of the Consumer Protection and Commerce Committee

From: John Spiker, On Behalf of the Hawaii Pawnbrokers Association and Secondhand Dealers

Re: HB 2553, Relating to Pawnbrokers and Secondhand Dealers

We support the intent of House Bill 2553, which is to aid law enforcement. Our industry wants to continue to work with law enforcement to improve the process of record reporting. However, we have some significant concerns with this bill.

Presently, we are strictly regulated. And, we know that within most organizations, there will always be one or two who cast a negative image on an otherwise respectable organization; pawnshops are no exception. Historically, our industry has had an unfair amount of negative stereotyping and consequently, we have received an undeserving amount of scrutiny.

We believe the statistics for property recovered from pawnshops does not justify the financial and technological hardship this bill would place on small business owners.

According to recent statistics from the National Pawnbrokers Association, less than $\frac{1}{10}$ of 1% of stolen property was found in pawnshops. After talking with many local pawn dealers, they report less than $\frac{1}{2}$ of 1% of the items in their shops were found to be stolen.

We believe the low percentage is the result of strict guidelines that we already follow, such as requiring every single customer to provide us with a government issued photo ID card and the fingerprinting of each customer. Items purchased by pawnshops are held a minimum of 30 days and pawned items are held a minimum of 60 days before they can be sold.

Many of the small business owners I have spoken with do not own computers and they are not computer literate. Many of them will not be able to comply with the requirement to computerize information because of their age and lack of experience and training with computer technology.

Many of these small business owners work by themselves. Most are middle aged to elderly. For example, one small business owner is in his 80's, several are in their 70's and most are in their 50's and 60's.

For most of them, their small business is their only source of income. They are honest, hardworking people who have worked hard in their business for decades.

The impact of this bill would be devastating and will probably put many of them out of business. Our industry believes the legislature wants to support small businesses.

Another concern of our Association is the cost to purchase, install and maintain a system connected to the Internet. We are unsure about the integrity of the system in terms of corruption of data, security protection of customer's personal information and proper support for trouble shooting. And as you know, this does not guarantee a problem-free process.

There are also stringent deadlines proposed that yield hefty fines if reports are not transmitted on time. We ask that you review the severity of these guidelines and provide flexibility, as there will be a pronounced learning

curve. There may be electronic and technical issues beyond our control that interfere with our ability to provide timely reports.

This bill requires a fee of \$1.50 to be charged to the business owners for each transaction. This fee is unreasonable and would be a financial hardship on each business owner and their customers. This bill already requires the small business owner to purchase a computer, software, Internet service and virus and security protection.

In summary, on behalf of the Hawaii Pawnbrokers Association, we ask that you do not pass this bill in its present form. However, if this bill is passed, we ask that the committee consider giving existing shops four years before this law takes effect. The five years would give some business owners time to retire, find another career or prepare for electronic filing.

We respectfully submit this testimony and thank you for your open-minded evaluation of this bill prior to affecting a struggling industry that provides a much-needed service to the consumer.

Sincerely,

John Spiker
President
Hawaii Pawnbrokers Association
808-372-2086

mckelvey3

From: yvettemoore007@aol.com
Sent: Sunday, January 27, 2008 9:38 PM
To: Yvettemoore007@aol.com
Subject: TESTIMONY FOR: SB NO.2567 and HB NO> 2553

January 25, 2008

Addressed To: Honorable Chairperson Herkes, and other Honorable Chairpersons on Committee for

RE: New S.B. No. 2567 and H.B. No. 2553
Testimony for the Senate and House of Representatives
Twenty-Fourth Legislature 2008
State of Hawaii

From: Pawnbroker, Yvette Moore, Paradise Loan & Jewelry, LLC

Dear Honorable Chairpersons,

I have been in the pawn business in Hawaii for 12 years. I am a full-time worker, and mother. Our business was formally owned by my father-in-law; retired major of Pearl City Police Station- Gordon Moore. He has mentored me within the business for many years.

To be straight to my point; we will explain why these bills will be negative and destructive to the welfare of our small businesses (also standing for other small pawn shops). It is also a detriment for our lower-income customers in Hawaii who are the majority as regular customers in need of our services. Another point we will cover is the fact that the computer systems and the \$1.50 per transaction fee that is imposed could literally put most pawnshops out of business and instigate even more burdensome costs to the police department.

In the recent past, the current system has proved that the police have recovered less than 1% of goods that were stolen. This percentage rate is compared in our daily pawn transactions. Therefore, this does show that the system does work and is not ineffective.

It is well-known that pawnshops are not the only place for secondhand goods; swap meets, internet sales, and street selling are other avenues for it.

Most of our customer base is returning customers who are lower income individuals who truly need pawnshops just to get by or succeed with daily living costs. Currently in the news throughout Hawaii, there are more people who have lost their jobs. Many of these individuals who do not have good credit need pawnshops just to help with their daily living costs. We would like to ask this committee; is it not on your agenda or mission to help and protect small businesses of Hawaii, and also help and support low-income individuals who depend on our businesses to survive rising costs? For example, our business is closely located to a military base. Many military personnel (who are not of a higher income bracket) visit our pawnshop just to endure to the next paycheck that is many times delayed by the government. These are hard working people who fight our war and deserve to be served well also. Many pawnshops that are owned by older individuals (who have been in the business for many years) are not computer equipped. Imposing computer costs on them could force them to close because there would not only need new space to be made for this equipment but employee costs to help maintain these

1/28/2008

tasks. Please consider the hardships on these small businesses that have served Hawaii people for years. Also, the \$1.50 per transaction imposed would need to be passed onto the customer, which in many cases would be very burdensome to customers who only need small loans such as \$5 to \$20 just for transportation. With the rising cost of gas and bus rides, why would the government penalize the lower income people in their way of life? This \$1.50 fee is unfair to our small businesses and should not be implemented.

The next issue that we would like to address is the fact that new computer systems within the police department would raise their own cost with acquiring, protecting and maintaining it. Inputting would not only be of concern, maintaining healthy computer networks are very costly too. It is well known that there are many computer hackers that can easily mess up a government system, and the risks of privacy laws could be violated. In the present system, public knowledge of our customer's transactions cannot be tampered with. However, with this new proposed system, there would be ways for our customer's privacy to be exposed through the Internet.

On other important similar issues, many computer tech companies charge astronomical fees to program government computers for more efficient use, which in many cases is not necessary if the system was kept the same, and done manually. If the police department could hire more office help to improve the current system, this would make more efficient cost sense. New computers systems always mean higher costs that everyone will need to pay for.

Thank you for your time.

♥ Yvette Moore

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To: Consumer Protection & Commerce Committee

Honorable Robert N. Herkes – Chair

Honorable Angus L.K. McKelvey - Vice Chair

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Representative Barbara C. Marumoto

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From: Al Higa – Kaneohe Pawn

Date: January 25, 2008

Re: HB2553 Relating to Pawnbrokers and Secondhand Dealers

I've been a pawnbroker in Kaneohe for the past twelve years. I am opposed to HB2553 for the following reasons:

- 1. Electronic Reporting would be a financial burden on many pawn businesses. Purchasing of computers, software, monthly internet service, anti-virus, spam, intrusion software. Also yearly technical support is costly.**
- 2. Many pawnbrokers are unfamiliar with computer technology and would have difficulty operating a computer. If this bill is allowed to pass, it may force some of the older pawnshop owners out of business.**
- 3. Currently, the holding period for items purchased from individuals give law enforcement ample time to retrieve stolen property from the pawnbroker. The number of**

confiscated items at my location for 2007 can be counted on one hand. My shop does close to 3000 transactions annually. Statistically, this number would equate to less than 1%. Pawn slips have been picked up in a timely manner, to date we have not had any inquiries about the items on the transaction tickets. Many of our customers are regulars, who we have done business with for years.

- 4. The proposed \$1.50 administrative fee per transaction is unreasonable. Many of our customers come to us for loans as little as \$5.00 to \$10.00. The loans are made for various reasons, some for gas, some for milk for their children, older customers need \$20.00 to \$30.00 for prescription drugs. These elderly people receive monthly social security checks and are between checks, but need to have a prescription refill. If an administrative fee is imposed, pawnbrokers would have to increase the minimum loan, thereby forcing these individuals to borrow more than they really need.**
- 5. We realize, drug use and property crime is a growing problem in Hawaii. However, Pawnshops are not the problem. The industry is highly regulated. Pawnshops provide a much needed service to the individuals who need a small loan and are not able get it from a bank or finance company.**

Thank you for allowing me to give testimony on HB2553.

Respectfully submitted,

**Al Higa
Owner
Kaneohe Pawn**

TESTIMONY BEFORE THE STATE HOUSE OF REPRESENTATIVES'
CONSUMER PROTECTION AND COMMERCE COMMITTEE; MONDAY,
JANUARY 28, 2008

REGARDING HOUSE BILL NO. 2553, "RELATING TO PAWNBROKERS
AND SECONDHAND DEALERS."

Good afternoon Chairman Herkes and members of the Consumer Protection and Commerce Committee. I am **Lloyd J. McKee, Manager of Waipahu Hawaii Pawn and a director of the Hawaii Pawnbrokers Association**, here to testify on House Bill No. 2553, "Relating to Pawnbrokers and secondhand dealers."

Managing a pawn shop with computers, I support the move to establish an automated system to facilitate the timely reporting of pawnbroker transactions to law enforcement. However, I am deeply concerned over what such a system will require of computerized as well as non-computerized shops. As one with computers, I question what "system" is to be implemented. A system change may well impact the hardware and software I possess. Changes will surely incur cost and time to comply. The problem will be even greater for those without computers at present.

While others here will testify on various aspects of and concerns with the Bill, I will focus my comments on the proposed administrative fee of \$1.50 for each transaction.

TESTIMONY BEFORE THE STATE HOUSE OF REPRESENTATIVES'
CONSUMER PROTECTION AND COMMERCE COMMITTEE; MONDAY,
JANUARY 28, 2008 – LLOYD J. McKEE

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Records of my shop's operations in 2006 and 2007 reflect the following:

2006

5,505 pawns and 740 buys totaling 6,245 transactions at a cost of \$ 9,367.50 were the proposed fee applied.

2007

5,545 pawns and 717 buys totaling 6,262 transactions at a cost of \$ 9,393.00 were the proposed fee applied.

Lacking sufficient time to conduct an in-depth review, a snapshot view was taken of December 2007's transactions. 200 of 426 pawns and 37 of 56 buys ranged in value from \$ 3 to \$ 150. Without details regarding what constitutes "offset the administrative costs of the electronic reporting system," the proposed fee appears excessive especially for low-end pawns and buys. The proposed fee deserves the Committee's close review and assessment as to its appropriateness. We would favor, if an administrative fee proves necessary, a fee based on a reasonable percentage of the amount of each transaction.

**TESTIMONY BEFORE THE STATE HOUSE OF REPRESENTATIVES'
CONSUMER PROTECTION AND COMMERCE COMMITTEE; MONDAY,
JANUARY 28, 2008 – LLOYD J. McKEE**

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That concludes my comments. I will be pleased to respond to any questions you may have. Thank you for the opportunity to address the Committee.

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