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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

Monday, January 28, 2008
2:05 p.m.

TESTIMONY ON HOUSE BILL NO. 2591 – RELATING TO GIFT CERTIFICATES.

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding House Bill No. 2591, Relating to Gift Certificates. The Department is in support of this measure if it does not prove to be excessively onerous to Hawaii's retailers. My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection.

It has been the experience of the Office of Consumer Protection that most consumers do not wish to retain balances on the unused portion of their gift certificates

or gift cards. House Bill No. 2591 seeks to amend Section 481B-13 of the Hawaii Revised Statutes by requiring retailers to pay out in cash the balance of any gift certificate worth less than \$5, if requested by the consumer. This provision would allow consumers who have small amounts left on their gift cards to receive the balance in cash rather than forcing them to keep a small balance. Currently, four states have laws mandating merchants to provide cash to consumers if the card's balance goes below a certain level. Vermont allows cash back for up to \$1, Washington and Montana give money back up to \$5, and most recently, California enacted a law in 2007 that allows its consumers to redeem gift certificates for cash if the balance is less than \$10.

Unless there are compelling reasons dictating against this measure, the Department believes that the committee should provide it with favorable consideration.

Thank you for this opportunity to testify on House Bill No. 2591. I will be happy to answer any questions that the members of the Committee may have.

Representative Robert Herkes, Chair
Representative Angus McKelvey, Vice Chair
Committee on Consumer Protection & Commerce
State Capitol, Honolulu, Hawaii 96813



HEARING Monday, January 28, 2008
2:05 pm
Conference Room 325

RE: HB2591, Relating to Gift Certificates

Chair Herkes, Vice Chair McKelvey, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. More than 50% of our members have fewer than 50 employees, and of those, 2/3 have fewer than ten.

RMH stands in opposition to HB 2591, Relating to Gift Certificates.

On the surface, giving cash to the customer when the balance is \$5.00 seems reasonable. And, for many of our large retailers who issue their own store cards, this is not a problem. Our real concern is with small retailers and service providers (hair stylists, manicurists, etc.). These are their concerns:

1. Cash back, even at "just \$5," can add up and seriously impact cash-flow. These are the companies that are really struggling with the high employment costs in this low unemployment market.
2. Companies that issue their store gift cards as part of their merchant services package through their banks, i.e., the VISA- or MasterCard-branded cards, pay an interchange fee when they process their customers' gift cards. Therefore, when they process the card for \$5.00 to give the customer \$5 back in cash, they will not get \$5 from their bank – they get anywhere from 2% to 4% LESS. While this does not seem a lot, it is cumulative and will add up.
3. With AMEX-branded cards (like Ala Moana and Ward), the retailer does not know the balance on the card. When the consumer uses these cards, all the retailer knows is that the purchase is approved (there is sufficient balance on the card) or declined (there is not enough left on the card to cover the purchase). The consumer can call the number on the card and get the balance and relay that information to the retailer. However, as with VISA and MasterCard, the retailer will lose from 2% to 4% on the interchange fee.
4. For small service providers, (like my hair stylist and her partner), regardless of their accounting procedures, the \$5 comes right out of their earnings for that day.

For these reasons, we ask that you hold HB 2591. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in cursive script, appearing to read 'Carol Pringle'.

President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202
email: retailmerchants



First Hawaiian Bank

Neal K. Okabayashi
Vice President & Attorney

Presentation to the
House Committee on Consumer Protection & Commerce
Monday, January 28, 2008 at 2:05 p.m. Room 325

HB2591 Relating to Gift Certificates

Representative Robert N. Herkes, Chair
and members of the House Committee on Consumer Protection & Commerce

My name is Neal Okabayashi and I testify for First Hawaiian Bank in support of HB 2591. This bill will enable consumers to obtain the benefit of a gift card. In many instances, once a card has minimal value, the consumer tends to not use the remaining balance on the card which is a detriment to the consumer and to the issuer. An issuer, especially if the card is an electronic card, as is normally the case today, continues to bear the monthly cost of maintaining the electronic card even though the consumer may have forgotten about the card or has no or little intention of using it. If the consumer obtains the small balance in cash, that would be a benefit to the consumer as well as the issuer of the card because then the issuer will no longer bear the monthly cost of maintaining the card.

Thank you for this opportunity to testify and I will be happy to answer any questions you may have.

Neal K. Okabayashi



LWD, INC.
1101 Fort Street Mall
Honolulu, HI 96813
(808) 532-1596 Fax (808) 532-1597

January 25, 2008

Rep. Robert N. Herkes, Chair
Committee on Consumer Protection & Commerce
House of Representatives
415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Chair Herkes;

I am writing in opposition to HB 2591 requiring retailers to pay out in cash the balance of any gift card or certificates worth less than \$5.

The majority of our Gift Certificates and Gift Cards sold are in the \$5.00 increments and in fact our Gift Certificates come in a book for \$5.00 with five certificates at \$1.00 each. Most of our customers buy these \$5.00 gift cards/certificate books to be given to their children and nephews and nieces because they know they would be used for food. We also have many social agencies such as Job Corps, HCAP, and Friends of Kailua Library buy our gift cards/certificates to be given out to the people they serve and most of the times in these \$5.00 increments because they know that they are being used to buy food and only food (not toys, cigarettes, alcohol, and many other non essentials). Having them easily turn them in for cash defeats the intentions of why many of these are given. Most people give specific gift cards and certificates for specific reasons, otherwise they would have just give cash.

Thanks you very much for giving us the opportunity to share with you reasons why this bill makes no sense for us. If additional input is needed, please let me know.

Sincerely,

Victor Lim
Franchise Owner



January 25, 2008

Rep. Robert N. Herkes, Chair
Committee on Consumer Protection & Commerce
House of Representatives
415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Chair Herkes;

I am writing in opposition to HB 2591 that would require restaurants to pay out cash balances of gift card and certificates of less than \$5.

Our Gift Cards are purchased with the intent that the recipient will use the full value at the restaurant. Mandating that they be redeemed for cash defeats the intentions of why they are given. We honor all gift cards sold with food and beverages to the very last penny. We sell the cards with that intent and honor it fully.

Thanks you very much for the opportunity to explain why we object to this bill. Please feel free to contact me for further comment.

Sincerely,

Thomas H. Jones
President
REI Food Service, LLC
d.b.a. Gyotaku Japanese Restaurants