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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2009

Thursday, February 26, 2009
8:30 a.m.

TESTIMONY ON SENATE BILL NO. 448 – RELATING TO DECEPTIVE TRADE PRACTICES.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (Department) appreciates the opportunity to testify with comments regarding Senate Bill No. 448, Relating to Deceptive Trade Practices. My name is Stephen Levins, and I am the Executive Director of the Office of Consumer Protection, representing the Department.

Senate Bill No. 448 seeks to amend section 481A-3 of the Hawaii Revised Statutes, by adding a provision that would make it an unfair or deceptive trade practice to advertise goods or services that are unlawful under any federal, state, or county law,

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ordinance, rule, or regulation. Presumably, among the panoply of regulations that this amendment would encompass would be things such as advertising an 'escort' service that is a front for prostitution or advertising contraband, such as drug paraphernalia or fully automatic weapons.

The Department has concerns that as drafted the proposed amendment is too vague to be enforceable. It is unclear whether the provision applies to the act or the advertisement and it is also unclear as to whether it applies only to Hawaii laws or those of any jurisdiction in the United States. For instance, does it mean that a Hawaii business could be found liable for violating an administrative rule from a county in Kansas that prohibits targeting advertisements to a certain class of persons? Consequently, unless this provision is clarified it would appear to present a myriad of enforcement difficulties, for the State of Hawaii, private litigants, and for the Courts.

Thank you for this opportunity to testify on Senate Bill No. 448. I will be happy to answer any questions that the Committee members may have.

baker2 - Michele

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 25, 2009 10:28 PM
To: CPN Testimony
Cc: rayneregush@aol.com
Subject: Testimony for SB448 on 2/26/2009 8:30:00 AM

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Testimony for CPN 2/26/2009 8:30:00 AM SB448

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Rayne Regush
Organization: Individual
Address: Kauai, Hawaii
Phone:
E-mail: rayneregush@aol.com
Submitted on: 2/25/2009

Comments:

I urge you to support SB448 which clarifies prohibition on deceptive trade practices.

There are many businesses that operate without permits in violation of DLNR or county regulations. SB448 would amend the definition of "deceptive trade practices" to include the advertising of goods or services that are unlawful under any federal, state or county law, ordinance, rule or regulation.

Deceptive trade practices create unfair competition for law-abiding businesses. This bill will provide an additional tool for fighting the businesses that break the rules.

I hope you will support this bill which will help to relieve the burden on community watch groups and regulatory agencies.

Mahalo,
Rayne Regush
Kauai