

## kawakami3-Benigno

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 11, 2014 9:09 AM  
**To:** CPCtestimony  
**Cc:** barbralohanhb5@yahoo.com  
**Subject:** Submitted testimony for HB2012 on Feb 12, 2014 14:10PM

### HB2012

Submitted on: 2/11/2014

Testimony for CPC on Feb 12, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barbra Armentrout	Individual	Support	No

Comments: The residents of the State of Hawaii have high rents and a higher cost of living than the mainland. We should not be held hostage by scalpers who wish to hold us to pay a ransom to be able to enjoy events in our state of Hawaii. This past fiasco with the Bruno Mars tickets is a good example of this. When at noon there were more than one online ticket source reselling tix to his concert from &240 to \$2585 got tickets that only cost \$114 or less. Lottery tickets over 300 of them per mgr of box office were distributed but only less than 80 people with those lottery tickets were able to purchase tickets. There are three shows and each show will hold 6000 people according to Tom Moffatt whom I spoke to. We as citizens of Hawaii are thankful you are doing this measure.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-SEVENTH  
REGULAR SESSION OF 2014

FEBRUARY 12, 2014  
2:10 PM

TESTIMONY SUPPORTING THE INTENT OF H. B. 2012, H.D. 1, RELATING TO  
CONSUMER PROTECTION.

TO THE HONORABLE ANGUS L. K. McKELVEY, CHAIR,  
AND TO THE HONORABLE DEREK S. K. KAWAKAMI, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify supporting the intent of H. B. 2012, H.D. 1, Relating to Consumer Protection. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 2012, H.D. 1 would prohibit the sale of tickets at prices greater than the sum of the price printed on the ticket, any lawful taxes collected, and any reasonable charge that shall not exceed an unspecified amount of dollars or a percentage of the price printed on the ticket. Violations of the proposed new section would be subject to a

per se HRS § 480-2 Unfair or Deceptive Act or Practice (“UDAP”) penalty, i.e. treble damages, attorneys’ and court fees. It also prohibits the use of “computer software to circumvent a security measure, access control system, or other control or measure on a ticket seller’s web site . . .” (“bots”), and stipulates a fine for violations.

OCP recognizes the impact that ticket scalping has had on Hawaii residents, and supports efforts to ensure that Hawaii consumers are able to attend major events at a reasonable cost. As drafted, this legislation may be difficult to enforce, however in light of the impact this matter has on Hawaii’s consumers, OCP is prepared to work with the Committee on crafting legislation that will ensure complete disclosure of fees and taxes, limit the amount of fees that can be assessed by ticket resellers, and prevent the use of bots to deprive consumers of the opportunity to purchase tickets.

Under current law, OCP has the jurisdiction to investigate and enforce potential violations of HRS § 480-2, Unfair or Deceptive Acts or Practices. This is sufficient, currently, to address instances where a promoter, primary ticket seller, or secondary ticket seller, misrepresents ticket availability or ticket prices.

Thank you for the opportunity to submit testimony supporting the intent of H. B. 2012, H.D. 1. I would be happy to answer any questions members of the committee may have.



February 11, 2014

The Honorable Angus L.K. McKelvey  
Chair  
Committee on Consumer Protection and Commerce  
Hawaii House of Representatives  
Hawaii State Capitol, Room 320  
415 South Beretania Street  
Honolulu, HI 96813



Dear Chairman McKelvey:

I am writing on behalf of the National Consumers League (NCL),<sup>1</sup> the nation's pioneering consumer organization, concerning HB2012 and consumer protections in the live event ticket market. We support efforts to combat the use of automated ticket buying software that circumvents the online ticket buying process and enables ticket brokers to buy large blocks of tickets in seconds, however we are concerned that this bill's efforts to limit ticket prices on the secondary market to face value may have unintended consequences.

NCL has long been involved in consumer ticketing issues. In 2009, we led a coalition of consumers and public interest groups, independent venue owners and promoters and secondary ticket sellers and more than 10,000 grassroots supporters in opposition to the Ticketmaster-Live Nation merger. Today, we continue to advocate on behalf of ticket-buying consumers nationwide.

The vast majority of states have deregulated the secondary ticket market, allowing prices to rise or fall with demand, opening up the market to a variety of sellers and providing consumers with a choice of where to go to buy concert or sporting event tickets. Because of this, consumers frequently turn to the online ticket resale market because it is competitive, transparent, and often offers consumer protections that rival or exceed those of original ticket sellers. Large ticket resellers such as StubHub, Ticketmaster's TicketsNow and TicketExchange and others guarantee the authenticity of every ticket they sell and consumers can buy tickets on these platforms, above but just as often for below, face value with confidence.

NCL supports the provisions in HB 2012 that would outlaw the use of automated ticket-buying software, or bots. The use of "bot" software to deny consumer fair access to tickets is a serious problem that will require a multi-pronged approach to correct. It is for this

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<sup>1</sup> Founded in 1899, the National Consumers League is America's pioneering consumer advocacy organization. Our non-profit mission to protect and promote social and economic justice for consumers and workers in the United States and abroad. For additional information, please visit [www.nclnet.org](http://www.nclnet.org).

reason that NCL has called for greater cooperation between primary ticketers like Ticketmaster, ticket brokers, ticket exchanges like StubHub and state attorneys general to put an end to the use of ticket "bots." The use of this technology is already outlawed in more than a dozen states.

NCL has not taken a position on the bill's provisions imposing price caps on resold tickets. We are sympathetic with the intent to prevent ticket scalping by capping prices on the ticket resale market in Hawaii to face value. However, we have found this to be a tricky area where there can be unintended consequences. Namely, such restrictions could force online resale marketplaces – many of which offer money-back guarantees in the event there is a problem with a ticket – to cease offering tickets for resale in the state. Were this to happen, Hawaiians in search of tickets to in-demand events might turn to street-level scalpers and online classified websites like Craigslist, which provide no protections whatsoever. When there is not a safe, regulated resale market, there is no guarantee that the ticket a consumer buys is authentic and no recourse if a ticket turns out to be fraudulent.

NCL supports the provisions of HB 2012 that would prohibit ticket-buying "bot" software and help make the ticket marketplace fairer for consumers. Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Breyault". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John D. Breyault  
Vice President, Public Policy, Telecommunications and Fraud  
National Consumers League  
Phone: (202) 207-2819  
Email: johnb@nclnet.org

cc: The Honorable Derek S.K. Kawakami, Vice Chair  
cc: Members of the House Committee on Consumer Protection and Commerce