

STAND. COM. REP. NO.

3019

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 2012
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2012, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit the sale of tickets to an exhibition, game, concert, and other events at prices greater than the sum of the price printed on the ticket, any lawful taxes collected, and any reasonable charge for services and specify that any violation shall be an unfair and deceptive practice;
- (2) Specify exceptions to the ticket sales requirements for primary ticket sellers, persons selling tickets for events outside the State, and tickets offered for sale through an internet website; and
- (3) Establish the use of software to circumvent online safeguards to purchase event tickets as an unfair and deceptive practice and impose an administrative fine.

Your Committee received comments on this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs; Department of Enterprise Services, City and County of Honolulu; eBay, Inc.; and A Tom Moffat Production.

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Your Committee finds that although various other states have laws on ticket scalping, Hawaii only prohibits ticket scalping at boxing and mixed martial arts events. There are no existing ticket sale regulations for other events, such as exhibitions, concerts, or other athletic competitions. Your Committee further finds that when these events sell out, a secondary market of profiteers, known as scalpers, begins to profit from the scarcity of tickets, which can frustrate potential buyers who were unable to acquire tickets through primary channels. The resale of tickets far in excess of the tickets' face value hurts all parties connected with a promotion except the scalper. Furthermore, the use of illicit computer software, known as bots, to electronically circumvent the ticket buying process also impedes the public's fair access to ticket sales.

Your Committee additionally finds that this measure attempts to address some of the concerns associated with ticket sales practices and ticket scalping by prohibiting 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 for services. However, your Committee also finds that Hawaii consumers are at a disadvantage for event ticket sales when these ticket sales begin in a much earlier time zone. To ensure that Hawaii residents have an equitable opportunity to purchase tickets for events in Hawaii, ticket sales for these events should commence no earlier than 8:00 a.m. Hawaii Standard Time.

Your Committee has heard the concerns that the language in this measure that prohibits the use of computer software to circumvent security measures or controls on a ticket seller's website may be difficult for the Office of Consumer Protection to enforce. Discovering the identity of persons utilizing bots to illegally acquire event tickets requires the use of investigatory techniques normally used in cybercrime investigations. Accordingly, it would be more appropriate to place this anti-bot language under the computer crime portion of the State's Penal Code.

Your Committee has amended this measure by:

- (1) Moving provisions that would have established new sections under chapter 481B, Hawaii Revised Statutes, into a new part in chapter 481B, Hawaii Revised



Statutes, relating to event ticket sales practices and ticket scalping;

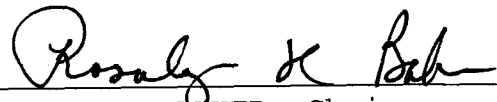
- (2) Specifying that no ticket sales for an event in Hawaii shall commence before 8:00 a.m. Hawaii Standard Time or before the primary ticket seller commences ticket sales;
- (3) Clarifying the requirements for internet website ticket sales;
- (4) Requiring a primary ticket seller to disclose all applicable taxes and fees that may be assessed on a ticket sale on the web page or physical display that lists the price of the ticket;
- (5) Requiring a primary ticket seller to disclose the number of tickets available in a ticket sale on a publicly available website or at the venue box office;
- (6) Specifying the remedies available to consumers under the new part in chapter 481B, Hawaii Revised Statutes;
- (7) For consistency, moving the language in section 481B-15, relating to ticket brokers, fees, and cancellations, into a new section under the new part in chapter 481B, Hawaii Revised Statutes, and repealing the existing section 481B-15;
- (8) Moving provisions that would have established a new section under chapter 481B, Hawaii Revised Statutes, relating to the circumvention of online ticket purchase processes, into a new section in part IX of chapter 708, Hawaii Revised Statutes, relating to computer crime, and making a violation of this section a misdemeanor rather than an administrative fine;
- (9) Amending the purpose section; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2012, H.D. 2, as amended herein, and



recommends that it pass Second Reading in the form attached hereto as H.B. No. 2012, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



