

HB 1621 HD1

Measure Title: RELATING TO CONSUMER PROTECTION.

Report Title: Merchandise; Returns; Unfair and Deceptive Trade Practices; Warranty Policy; Repair; Replacement; Refund

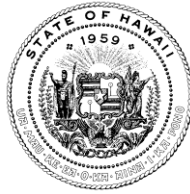
Description: Prohibits a merchant from adopting a warranty policy that requires a customer to pay an additional fee to obtain a repair, replacement, or refund for goods returned pursuant to the warranty. (HB1621 HD1)

Companion: [SB2057](#)

Package: None

Current Referral: CPH

Introducer(s): TAKUMI, ICHIYAMA



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TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Thursday, March 22, 2018
9:15 a.m.

TESTIMONY ON HOUSE BILL NO. 1621, H.D. 1, RELATING TO CONSUMER PROTECTION.

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 on H.B. 1621, H.D. 1, Relating to Consumer Protection. My name is Stephen Levins, and I am the Executive Director of the Department’s Office of Consumer Protection. The Department supports this bill and offers the following comments.

This bill proposes to require merchants to refund shipping and handling charges to consumers if the consumer received damaged or defective goods and was not informed in writing that the goods were defective or damaged. H.D. 1 amends H.B. 1621 by: (1) deleting the language requiring a merchant to include a refund of all shipping and handling charges paid by a purchaser if the goods were damaged or defective prior to the time of the sale; and (2) prohibiting merchants from adopting a warranty policy that requires a customer to pay an additional fee to obtain a repair, replacement, or refund for goods returned pursuant to the warranty.

While warranty policies are merchants' promise to consumers to stand behind their products, many merchants have return policies that impose processing or administrative fees on consumers to effectuate a warranty claim on defective goods. A consumer who purchases a defective product should be able to return it for repair, replacement, or refund without having to bear additional costs.

Because warranty policies are different than return policies, the new language on page 1, lines 8-11 of this bill is inconsistent with the rest of the section. Therefore, the Department offers the following amendment for consistency: "A merchant shall not charge a customer any fee, including a processing fee or an administrative fee, to repair, replace, or refund goods pursuant to this section."

Thank you for the opportunity to testify in support of H.B. 1621, H.D. 1. I would be happy to answer any questions the Committee may have.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 22, 2018**

Re: HB 1621 HD 1 Relating to Consumer Protection

Good morning Chair Baker and members of the Senate Committee Commerce, Consumer Protection and Health. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization committed to supporting the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

The Retail Merchants of Hawaii OPPOSES HB 1621 HD1 Relating to Consumer Protection. Retail has changed over the years where more and more people are purchasing online, expecting free shipping and no less than 2 day delivery. Last year alone, nationwide online shoppers returned more than \$260 billion worth of merchandise for various reasons that included but are not limited to not the right color or size, not what expected, received the wrong item, don't want it anymore...

Reputable online retailers as a whole and in good faith do not intentionally or knowingly try to deceive their customers by sending them defective or damaged items unless noted. At least 30% of all products ordered online are returned as compared to 9% in brick and mortar stores. Many retailers in good faith also try to resolve the issue by replacing the item and often offer free return shipping. Often times, retailers have no way of knowing if the item truly contained a manufacturer's defect or was damaged during shipping – or more often than not if the customer damaged the item themselves in an effort to return it.

Retailers are also very concerned with this measure that customers may be more inclined to return abuse. Retailers are seeing this more often and it is a form of "friendly fraud abuse" where someone purchases products without intending to keep them. Perhaps the most well-known form of this abuse is "wardrobing" or "free renting" – in which the person makes a purchase, uses the product(s), and then returns the merchandise. This is done not only with clothing, but electronics, household items and more.

Sales on the worldwide web are global. Customers purchasing online need to have due diligence in reading and understanding the online shops' return policies as they vary from store to store and especially internationally as well.

We ask that you hold this measure.

Mahalo for this opportunity to testify.