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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Thursday, March 1, 2018
2:30 P.M.

TESTIMONY ON HOUSE BILL NO. 2727, H.D. 1, RELATING TO CONSUMER PROTECTION.

TO THE HONORABLE SYLVIA J. LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2727, 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 (“OCP”). The Department offers the following comments on this bill, which is a companion to S.B. 3025.

This bill adds two new sections to Hawaii Revised Statutes (“HRS”) chapter 481B that require: (1) video game publishers that distribute video games containing a system of purchasing a randomized reward to prominently disclose and publish the probability of receiving a randomized award to the consumer at the time of purchase; and (2) video games containing paid randomized awards to prominently display disclosures to consumers that the video game features in-game purchases and gambling-like mechanisms which may be harmful or addictive. H.D. 1 amends H.B. 2727 by: (1) appropriating an unspecified amount of funds for the Department to audit the codes of

video games sold in Hawaii; and (2) changing the effective date to July 1, 2050, to facilitate further discussion.

As video games have increased in popularity, discussions about their impact on society have also increased. Recent trends in gaming include games that contain features known as “pay to win.” In most video games, players earn credits that can be used to unlock “loot boxes” containing random rewards that enhance a player’s effectiveness and advancement in the game. Video games with “pay to win” features also allow players to advance quickly by giving them the option to purchase credits to unlock a “loot box.” Recently, mental health professionals have raised concerns that predatory mechanisms, such as “loot boxes,” can present the same psychological, addictive, and financial risks as gambling. Social commentators have also remarked that paying real money to unlock “loot boxes” without knowing what kind of reward is inside has all the indicia of gambling.

The primary purpose of OCP is to promote fair and honest business practices by investigating alleged violations of consumer protection laws by taking legal action to stop unfair or deceptive practices in the marketplace. In the past several years, OCP has received approximately 700-1,000 consumer complaints per year and has prosecuted many significant cases involving violations of Hawaii’s consumer protection laws. These have involved cases involving mortgage rescue fraud, data breaches, gift certificates, and refunds and exchanges, as well as complex litigation involving alleged unfair or deceptive marketing practices by pharmaceutical companies and motor vehicle manufacturers.

The Department acknowledges the serious issues concerning these types of video games but notes that there will be severe logistical challenges in enforcing this bill, especially the provision authorizing the Department to audit video game code. While the Department appreciates the bill recognizes that a significant appropriation of funds will be necessary to fund an audit as described in this bill, the Department is concerned that an audit would divert critical resources away from OCP’s core mission of enforcing Hawaii’s primary consumer protection laws.

The Department respectfully recommends deleting subsection (b) that authorizes the Department to audit the code of video games sold in Hawaii. If the Department believes a violation of this chapter has occurred, it could substantiate its case through its subpoena power prior to litigation or through the discovery process during litigation.

Thank you for the opportunity to testify on H.B. 2727, H.D. 1. I would be happy to answer any questions the Committee may have.

HAWAII YOUTH SERVICES NETWORK

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Bay Clinic

Big Brothers Big Sisters of
Hawaii

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of
West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action
Network

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Maui Youth and Family Services

P.A.R.E.N.T.S., Inc.

Parents and Children Together
(PACT)

Planned Parenthood of the
Great Northwest and
Hawaiian Islands

PHOCUSED

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community
Center

The Catalyst Group

March 1, 2018

To: Representative Sylvia Luke, Chair
And members of the Committee on Finance

TESTIMONY IN SUPPORT OF HB 2727 HD 1 RELATING TO CONSUMER PROTECTION

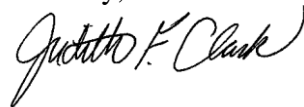
Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports HB 2727 HD 1 Relating to Consumer Protection.

Video games that contain variable-reward mechanisms (called loot boxes) are widely and easily available to consumers. Children and youth who play these games are introduced to the thrills of gambling at an age when their brains are not fully developed. They are vulnerable to developing behavioral addiction to gambling, and do not have the maturity and knowledge to recognize the risks they encounter. Parents and other responsible adults are often unaware of these features in the games their children are using.

Providing full disclosure of the odds of winning and establishing a mechanism to monitor compliance of video games that contain variable-reward mechanisms is prudent and sensible.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director