

SB3024

Measure Title: RELATING TO CONSUMER PROTECTION.
Report Title: Video Games; Prohibition; In-game Purchases
Description: Prohibits the sale of video games containing a system of purchasing a randomized reward to consumers under 21 years of age.
Companion:
Package: None
Current Referral: CPH, JDC
Introducer(s): S. CHANG, Baker



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February 1, 2018

**Written Testimony of TechNet
Presented for the Record to
Committee on Commerce, Consumer Protection, and Health
February 2, 2018**

Chair Persons Baker and Chang of the Commerce, Consumer Protection, and Health Committee:

On behalf of TechNet, we must respectfully oppose SB 3024. This measure would prohibit the sale of video games to persons under the age of 21 that contain a randomized reward or rewards. TechNet member companies include breakthrough startups and the most storied, life-changing technology companies on the planet; we as an industry keep America's innovation economy growing and creating more good-paying jobs.

First, we appreciate the opportunity to engage in thoughtful and meaningful conversation around today's video games, their evolving in-game mechanisms and technology, as well as the information available to help consumers and parents make informed decisions regarding the content of the games they play. Video game players are the most essential component of the video game industry's success, and their awareness and trust is paramount to our business.

The types of in-game mechanisms SB 3024 is seeking to prohibit are not new. Loot boxes use a technique similar to the one used for many years with baseball cards. Customers might not know exactly what they are getting until they open the package, but they are guaranteed to get something. Sometimes you find the hologram card of an MLB All-Star; other times it might be a middling rookie. Similarly, loot boxes may reward the gamer with a sought-after virtual item (e.g., a hard-to-find object) or a more pedestrian item (e.g., an animated emoji). However, players always get something for use within the game, not outside the game. All loot boxes contain virtual items.

Loot boxes are an optional feature in certain games to provide gamers another way to acquire virtual items for use in that game. As with other virtual items, often loot boxes can be earned through game play or purchased using virtual currency. Players like to collect virtual items, such as cosmetic features for their avatars, and loot boxes help meet this desire in an entertaining way. These items cannot be removed from the game. Nor can one cash them out legally as the terms of service prohibit it. So, the virtual items found in loot boxes have no "value" in the real world.

It is important to note that is not necessary or required for players to acquire or purchase loot boxes to advance within a game. A gamer can play through an entire video game successfully without buying any loot boxes. Like other in-game features, players can choose to use them or not. Some or most of the same items found in loot boxes can often be obtained through routine game play (*e.g.*, defeating an enemy) or by direct purchase. In some cases, loot boxes have elements that help a gamer progress (*e.g.*, tools or different equipment). In others, they are merely cosmetic.

The video game industry understands and appreciates the increasing challenges parents and other caregivers face today in determining the appropriateness of content children view through entertainment devices. The industry takes this responsibility very seriously, which is why parental control allowing parents to limit their children's video game use, block games by rating category, and limit or prohibit in-game purchases by the product manufacturer.

The video game industry is now a \$36 billion American success story that continues to grow substantially year over year—and its consumer base continues to be one of the most diverse. Sixty-seven percent of American households own a device used to play video games. Video games are enjoyed by scores of millions of Americans, often by entire families playing together across generations.

The increased attention around video games and their in-game components has spurred a valuable dialogue around emerging technologies and business practices in which industry is actively engaged. It is industry's desire to help educate committee members and other members of the legislature on the intricacies of the video game industry, its commitment to all consumers, and its ongoing efforts to address emerging issues as quickly and appropriately as possible.

It is the hope of TechNet and its members the information provided helps clarify the attributes of the in-game mechanics SB 3024 seeks to prohibit.

For these reasons, we respectfully ask the members of the Commerce, Consumer Protection, and Health Committee to vote "NO" on this measure.

Sincerely,



Executive Director

Cc: Members, Commerce, Consumer Protection, and Health Committee



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 2, 2018**

Re: SB 3024 Relating to Consumer Protection

Good morning Chairperson Baker and members of the Senate Committee on Consumer Protection and Commerce. 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 is opposed to SB 3024 Relating to Consumer Protection. Retailers recognize the intent of this bill and the possible affects micro-transactions may have on some of the gamers, including those who are under the age where video games is a popular form of endless entertainment. However, the burden should not be put on the retailer.

With the many new video games being released, these micro-transactions or more commonly known as loot boxes are often found after the games release or through an online upgrade after the game is purchased. If it is not stated in the packaging or advertising materials, how will some retailers know of the games true capabilities? It would also put an undue burden on resellers like non-profit organizations who take in donated new or used video games for resell and may not be tech savvy on what the games actually offer and do.

If we prohibit the sale to those 21 and under, our local brick and mortar stores sales would be impacted. More people will turn to online sales to purchase these items to circumvent the stores checking their IDs. The loss of sales in a brick and mortar store would impact an already fragile industry that is constantly competing with an increasing on line sales presence.

It would be more desirable if the manufactures labeled the video games that contain loot boxes to warn gamers and parents of minors purchasing or playing the games. This would take the burden off of the retailers while warning those purchasing and playing the games.

Mahalo for this opportunity to testify.

SB-3024

Submitted on: 2/1/2018 4:53:47 PM

Testimony for CPH on 2/2/2018 9:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Joseph Heaukulani | | Support | No |

Comments: