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TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, April 3, 2018
10:30 A.M.

**TESTIMONY ON SENATE BILL NO. 3025, S.D. 1, 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 S.B. 3025, S.D. 1, 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 appreciates the intent of this measure but has strong concerns about the language in H.D. 1 on page 1, line 14 to page 2, line 2, and is therefore opposed to this bill as currently written.

This bill adds a new section to Hawaii Revised Statutes (“HRS”) chapter 480 that: (1) requires a franchisee to disclose at its entrance or storefront that it is not participating in a promotion or discount offered by the franchise; (2) prohibits a franchisor from limiting or placing conditions upon the franchisee in making the required disclosure; and (3) exempts quick service restaurants from disclosing their non-participation in a specific advertising campaign of a franchisor.

Consumers are often confused or misled by offers a franchise makes in national advertising campaigns. While an advertisement may state that an offer is not available

in Hawaii, this disclosure is often in tiny print and therefore insufficient to inform the consumer that the offer is not available in the State. If a promotion or discount is not available in Hawaii or at a particular location, this information should be disclosed to the consumer. The disclosure requirement in this bill will clarify to consumers whether an offer is available in Hawaii.

The Department, however, is concerned that the exemption in subsection (c) for “quick service restaurants” raises several issues that run counter to consumer protection and for that reason opposes it in its current form. First, the exemption carves out a large segment of the restaurant industry from providing adequate notice of offers to Hawaii consumers. Many of the biggest names in the quick service industry, also known as fast food restaurants, have a significant presence in Hawaii. A cursory examination reveals that more than 20 restaurants fit within this category. When OCP receives complaints from consumers regarding nationwide advertisements promoting offers that are not available in Hawaii, quick service restaurants are invariably involved.

Second, the exemption language in subsection (c) is broad enough to possibly include higher-end restaurants that have counter or carryout service. These include upscale Italian restaurants, as well as steakhouses. Exempting these types of restaurants from disclosing non-participation in nationwide offers could expand the number of businesses providing misleading and confusing advertising to consumers.

Third, if enacted, the quick service industry may feel it no longer need to provide disclaimers on their national advertisements that the offer is not available in Hawaii. The Department is concerned that this new language will cause national restaurant chains to refrain from adequate disclosures in their advertisement campaigns, which may lead to misleading Hawaii consumers.

Thank you for the opportunity to testify on S.B. 3025, S.D. 1, H.D. 1. I would be happy to answer any questions the Committee may have.



Tyler Roukema, Chairman – Outback Steakhouse **Kelii Gouveia, Incoming Chair** – Hula Grill
Hide Sakurai, Vice Chair – Diamond Dining **Dirk Koeppenkastrop, Secretary** – Il Gelato
Ben Dowling, Treasurer – Ocean House **Michael Miller, Past Chair** – Tiki's Grill & Bar

Gregg Fraser, Executive Director **Sunny Obrey**, Executive Assistant **Holly Kessler**, Director of Membership Relations

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To: Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
Members of the Committee on Finance

From: Victor Lim, Legislative Chair
Hawaii Restaurant Association

Subj: SB3025, SD1, HD1 Advertising campaigns non-participation

Date: March 31, 2018

We at the Hawaii Restaurant Association representing 3,500 restaurants here have questions regarding the intent of this bill in that it is very broad and cover many industries here in Hawaii and not limited to just restaurants and we urge you to defer this bill.

In our restaurant industry we also have many sub categories from fine dining (Morton's, Ruth Chris's, Roy's), fast casual (Chili's, Ruby Tuesday, Outback, CPK), and quick service (McDonald's, Wendy's, Subway) restaurants.

Everyone of the above concepts have a different way of communicating what their respective national advertising offers and how the local entities here in Hawaii choose to honor. The national advertising all have to state (.....at participating restaurants,contiguous 48 states,except AK and HI) as required by the federal provisions.

We appreciate the exemption of the quick service restaurants with HD1 but the broadness of this bill still makes it very hard for us others in our restaurant industry to properly try and comply with the requirement because store fronts and entrances are so different.

Thank you for giving us an opportunity to share our comments with your committee. If you have further questions, please feel free to let us know.

Thanks and Aloha.



SB-3025-HD-1

Submitted on: 4/2/2018 12:40:15 PM

Testimony for FIN on 4/3/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tyler Roukema	Individual	Oppose	No

Comments:

To: Rep. Sylvia Luke, Chair

Rep. Ty J.K. Cullen, Vice Chair

Members of the Committee on Finance

From: Tyler Roukema - Outback Steakhouse



LATE

Brian Kitagawa, President
Dave Rolf, Executive Director

HADA TESTIMONY IN STRONG OPPOSITION
To SB3025 SD1 HD1
RELATING TO CONSUMER PROTECTION
Presented to the House Committee on Finance
at the Public Hearing, 10:30 a.m. Tuesday, April 3, 2018
Conference Room 308, Hawaii State Capitol

Chair Luke, Vice Chair Cullen and members of the committee:

There are numerous occasions where national ads spill over into local market broadcasting and might not apply to Hawaii.

In the case of Hawaii distributors, there are often exclusions from national campaigns for many various reasons. Sometimes West Coast dealer ad group marketing TV advertising does appear and the disclaimers flashed on TV are easy to miss.

Although, it appears to be a simple task, this bill proposes problematic provisions to comply with. There have been occasions where the first notification dealers see is the TV advertising broadcast.

It is wrong to place dealerships in violation of HRS Chapter 480 when no notice or late notice of national ads is received.

Many times, there is a prior courtesy notice prior to launching a national program but, often the lead time is very short and sometimes within 24 hours of launch.

In short, the administrative difficulties created to address this customer notification requirement relating to ads coming in from the mainland would be near impossible to adhere to, according to one of Hawaii's largest dealers, who owns and operates multiple franchised automobile dealerships representing national and international auto manufacturers.

Posting local disclaimers would require a daily blanket disclaimer to insure 100% compliance.

For the above reasons we ask that SB3025 SD1 HD1 be held.

Respectfully submitted,

David H. Rolf

For the Members of the Hawaii Automobile Dealers Association