



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Economic Development and Business
Wednesday, February 6, 2019
10:10 a.m.
State Capitol, Conference Room 309**

**On the following measure:
H.B. 761, RELATING TO CONSUMER PROTECTION**

Chair Takumi and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department offers comments on this bill.

The purpose of this bill is to require businesses to provide proof of purchase in electronic form, unless a consumer requests it in paper form, and specifies penalties for violations of this requirement. Its primary benefit is that it will alleviate the use of unnecessary paper that may not be able to be recycled.

Many retailers now offer their customers the option of receiving receipts electronically by email or text message. Customers provide their email addresses or mobile numbers at the point of sale or on the retailer's mobile app. Besides offering customers the convenience of receiving receipts digitally, electronic receipts are a means to obtain consumers' email addresses and mobile numbers for marketing

purposes. In view of this, privacy advocates have cautioned consumers not to give personal information too freely.

Consumers who provide retailers with their personal information are at risk of having it compromised by unauthorized third parties. Criminals can use stolen email addresses to develop phishing attacks aimed at a store's customers. Recent examples of unauthorized access of personal information include infiltration of the databases of major retailers, including Macy's, Bloomingdales, Sears, Kmart, Best Buy, Saks Fifth Avenue, and Whole Foods. It would be imperative for all retailers affected by this bill to have adequate safeguards in place that protect their customers' data.

The Department also notes that retailers will face logistical difficulties in implementing this proposal, especially for retailers whose consumer transactions are typically a few dollars and the customers pay by cash. In these instances, requiring the retailer to offer electronic receipts as the default option may be challenging.

Given the above, it may be premature to enact this measure into law at this time. Thank you for the opportunity to testify on this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 761, RELATING TO CONSUMER PROTECTION.

BEFORE THE:

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

DATE: Wednesday, February 6, 2019 **TIME:** 10:10 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Clare E. Connors, Attorney General, or
Mana Moriarty, Deputy Attorney General

Chair McKelvey and Members of the Committee:

The Department of the Attorney General has concerns regarding this bill because it creates an imposition on small businesses and may be unworkable based on how the electronic proof of purchase requirement is enforced.

The purpose of this bill is to require electronic proof of purchase to be provided to a consumer by a business in connection with the retail sale of tangible personal property or the provision of services. This bill attempts to achieve this purpose by creating a system of remedies enforceable by the Attorney General or the Director of the Office of Consumer Protection. For a first and second violation of the electronic proof of purchase requirement, a business will receive a notice of violation. For the third violation and every subsequent violation, the remedy is a fine in the sum of \$25 per violation. Fines shall be collected by the Attorney General or the Director of the Office of Consumer Protection in a civil action.

The electronic receipt requirement imposes a difficult burden on businesses that do not accept credit cards. For example, many retail sales at craft fairs, garages sales and other small business accept payment in cash only and may be at a loss as to how to comply with this measure without significant changes to their sales operations.

Certain retail businesses that provide self-service checkout kiosks may also be impacted because self-service checkout kiosks typically print paper receipts for all customer purchases. It is unclear whether these businesses would have to undertake significant changes to their sales operations to comply with this bill.

We also have concerns about enforcing the electronic receipt requirement. This bill requires the Attorney General or the Director of the Office of Consumer Protection to file a civil action to collect fines. The bill appears to limit the amount of fines that can be collected in any civil action to \$300. Requiring a civil action to be filed to collect sums less than \$300 would require significant resources out of proportion to the significance of the problem as measured by the amount of the fine, and would not be an effective use of law enforcement resources.

We respectfully ask the Committee to hold this bill and suggest that the Committee consider requesting the Legislature's Auditor conduct a study looking at alternatives to the requirement that electronic proofs of purchase be provided for consumer transactions.



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

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Derek Kurisu, KTA Superstores, *Advisor*

TO:
Committee on Economic Development and Business
Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Wednesday, Feb. 6, 2019
TIME: 10:10 a.m.
PLACE: Conference Room 309

RE: HB 761 RELATING TO CONSUMER PROTECTION

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

This measure requires businesses to provide proof of purchase in electronic form, unless a consumer requests it in paper form.

Many customers are tourists who may be unwilling or unable to share their contact info due to language differences.

The process of collecting an email or phone number for each individual consumer will make wait times much longer.

Large operations may offer loyalty programs tied to phone numbers but not all consumers are willing or able to give out personal information. Many smaller operations may not have an adequate system to maintain this level of data.

This type of regulation is not really necessary and will likely be overly costly for many small businesses and very difficult to implement in high tourist areas.

Considering that the vast majority of brick and mortar use paper receipts this bill would mandate a change in a vital part of the business transaction for a large number of businesses.

How would enforcement prove a violation when a customer is given a choice?

What happens when there is spotty Wi-Fi, Internet or equipment failure?

We thank you for the opportunity to testify.



LATE

**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 6, 2019**

Re: HB 761 Relating to Consumer Protection

Good afternoon Chairperson McKelvey and members of the House Committee on Economic Development & Business. 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.

We STRONGLY OPPOSE HB 761 Relating to Consumer Protection. This bill requires businesses to provide receipts in electronic form, unless a consumer requests it in paper form and if not there are penalties. Not all Point of Sales systems and cash registers are able to email customers their receipts. Often time customers have to opt into an awards program to be able to have their receipt emailed to them. Not all retailers have an awards program or an app that is able to do this. It is our understanding that these programs and apps can be very costly to create and maintain.

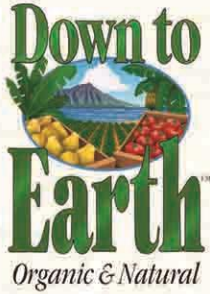
We also are concerned about the privacy issues surrounding just gathering and maintaining customers' emails outside of rewards programs and apps.

This would have an even larger negative impact on many small local businesses whose cash registers produce only an adding machine type tape receipt and is not connected to the internet. This would include many Mom and Pop corner stores, farmers market and craft fair sellers, and small businesses.

Retailers are already operating on thin margins and small local owned businesses may close their doors because they are unable to afford to comply with government mandates like this. With the recent jump in minimum wages, goods, services and health care benefits, some businesses are struggling. Policy makers should be focusing on eliminating obstacles to business growth, supporting job creation and economic stability and not adding additional costs that employers cannot afford.

We urge you to hold this bill. Mahalo for this opportunity to testify.

Love Life!



LATE

HB 761 RELATING TO CONSUMER PROTECTION
Senate Committee on Economic Development & Business
February 6, 2019, 10:10am State Capitol

Corporate Office
P.O. Box 1166
Kailua, HI 96734
Phone: (808) 484-5890
Fax: (808) 484-5896
corporate@downtoearth.org

Oahu Locations

Honolulu
2525 South King Street
Honolulu, HI 96826
Phone: (808) 947-7678
Fax: (808) 943-8491
honolulu@downtoearth.org

Kailua
201 Hamakua Drive
Kailua, HI 96734
Phone: (808) 262-3838
Fax: (808) 263-3788
kailua@downtoearth.org

Pearlridge
98-211 Pali Momi Street
Suite 950
Aiea, Hawaii 96701
Phone: (808) 488-1375
Fax: (808) 488-4549
pearlridge@downtoearth.org

Kapolei
4460 Kapolei Parkway
Kapolei, Hawaii 96707
Phone: (808) 675-2300
Fax: (808) 675-2323
kapolei@downtoearth.org

Kakaako
500 Keawe St.
Honolulu, HI 96813
Phone: (808) 465-2512
Fax: (808) 465-2305
kakaako@downtoearth.org

Maui Location

Kahului
305 Dairy Road
Kahului, HI 96732
Phone: (808) 877-2661
Fax: (808) 877-7548
kahului@downtoearth.org

Aloha Rep. Angus L.K. McKelvey, Chair, Rep. Lisa Kitagawa, Vice Chair, and
Committee Members,

Down to Earth Organic and Natural testifies in opposition of HB 761.

Down to Earth *Organic and Natural* has six locations on Oahu and Maui. Since we opened in 1977, we have supported healthy lifestyles and preservation of the environment by selling local, fresh, organic and natural food, and by promoting a vegetarian lifestyle.

We are opposed to HB 761 because receipts are still the most convenient form of proof of purchase for allowing customers to see what they have paid for, confirm the price they have paid, prove that they have paid (which is important with the current reusable bag policies), and easily allow them to keep records and return items.

Although electronic receipts are helpful to some people in some circumstances, requiring electronic receipts will cause a burden to retailers and slow down check out lines as cashiers request customer email addresses. An alternative to the current language of HB 761 would be to require retailers who include coupons and other information besides just the purchase history on their receipts, to offer customers an electronic version alternative.

Thank you for the opportunity to comment on this bill.

Alison Riggs
Public Policy & Government Relations Manager
Down to Earth

2525 S. King St., Suite 309
Honolulu, HI 96826

Phone (808) 824-3240
Fax (808) 951-8283
E-mail: alison.riggs@downtoearth.org

www.downtoearth.org

PETER L. FRITZ

TELEPHONE (SPRINT RELAY): (808) 568-0077
E-MAIL: PLFLEGIS@FRITZHQ.COM

HOUSE OF REPRESENTATIVES THE THIRTIETH LEGISLATURE REGULAR SESSION OF 2019

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Testimony on H.B. 761
Hearing: February 6, 2019

RELATING TO CONSUMER PROTECTION

Chair McKelvey, Vice Chair Kitagawa and members of the Committee. My name is Peter Fritz. I am testifying in **opposition** to H.B. 761.

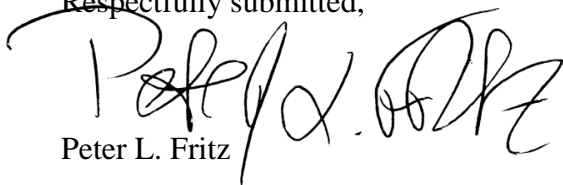
This bill requires businesses to provide proof of purchase in electronic form, unless a consumer requests it in paper form. I am opposed to this bill because it imposes a burden on small businesses and may invade the privacy of customers.

- Burden on Small Businesses
 - Vendors at a flea market or farmer's market are required by tax law to provide a receipt. However, these vendors will not have the equipment to provide such receipts at an outdoor event.
 - A small business, such as a food truck, may be required to purchase a new system to provide electronic receipts and install an internet connection. Cash registers are not designed to enter email addresses.
- Privacy Concerns
 - Customers may unknowing consent to the sale of their personal information with third parties when providing information needed to receive a e-receipt.
 - To protect the privacy of individuals that request an e-receipt, the bill should contain provision to protect the privacy of customer's email address or cellular phone number with third party marketers that have no connection with the sale. A person may be aware that when they provided request an electronic receipt as a convenience and not realize that they "consented" to the sharing of their personal information.

I respectfully request that this bill be held or in the alternative amended to provide an exception for small businesses and provisions restricting the sharing of a customer's information.

Thank you for the opportunity to testify.

Respectfully submitted,


Peter L. Fritz

LATE



Hawaii Automobile Dealers' Association

John Uekawa, President
Dave Rolf, Executive Director

HADA TESTIMONY WITH COMMENTS
On HB761
RELATING TO ELECTRONIC RECEIPTS; FINES
Presented to the House Committee on Economic Development and Business
At the Public Hearing, 10:10 a.m. Wednesday, February 6, 2019
Conference Room 309 Hawaii State Capitol

Chair McKelvey, vice chair Kitagawa and members of the committee:

This bill requires businesses to provide proof of purchase in electronic form, unless a consumer requests it in paper form.

There are many instances, however, relating to the sale of vehicles where a paper bill of sale form is still required.

Please see the requirements for a customer to transfer a title in Honolulu which include requirements for a paper bill of sale when transferring at the counter.

When going to transfer a car title in person, the following information is required:

The old vehicle registration.

The old car title filled out completely.

A bill of sale.

Fees for title and registration.

Valid identification for both the buyer and seller.

There are many other requirements in law relating to the documentation for the transfer of legal ownership of a motor vehicle.

Thank you for the opportunity to comment on this measure.

Respectfully submitted,

David Rolf

The Hawaii Automobile Dealers Association

1100 Alakea St. Suite 2601, Honolulu Hawaii 96813

