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# A BILL FOR AN ACT

RELATING TO DECEPTIVE TRADE PRACTICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that products that are  
2 marketed as being "for women" often cost more than virtually  
3 identical products that are marketed as being "for men". A 2015  
4 study by the New York City Department of Consumer Affairs found  
5 that women's products cost an average of seven per cent more  
6 than substantially similar men's products. The study found  
7 that, over a lifetime, women are charged thousands of dollars  
8 more based solely on gender-based marketing. The legislature  
9 believes that this "pink tax" or "gender tax" is a deceptive  
10 trade practice and a form of gender discrimination.

11           Accordingly, the purpose of this Act is to establish that  
12 gender-based pricing by manufacturers who sell the goods they  
13 manufacture to any person in the State for a price they set  
14 constitutes an unlawful deceptive trade practice.

15           SECTION 2. Section 481A-2, Hawaii Revised Statutes, is  
16 amended by adding two new definitions to be appropriately  
17 inserted and to read as follows:



1       "Substantially similar goods" means goods having no  
 2 substantial differences in the materials used, intended uses, or  
 3 functional designs and features. Differences in coloring among  
 4 consumer goods shall not constitute substantial differences for  
 5 purposes of this chapter.

6       "Substantially similar services" means services having no  
 7 substantial differences in the amount of time needed to provide  
 8 the services, difficulty in providing the services, or cost of  
 9 the services to the provider."

10       SECTION 3. Section 481A-3, Hawaii Revised Statutes, is  
 11 amended by amending subsection (a) to read as follows:

12       "(a) A person engages in a deceptive trade practice when,  
 13 in the course of the person's business, vocation, or occupation,  
 14 the person:

- 15       (1) Passes off goods or services as those of another;
- 16       (2) Causes likelihood of confusion or of misunderstanding  
 17       as to the source, sponsorship, approval, or  
 18       certification of goods or services;
- 19       (3) Causes likelihood of confusion or of misunderstanding  
 20       as to affiliation, connection, or association with, or  
 21       certification by, another;



- 1           (4) Uses deceptive representations or designations of  
2           geographic origin in connection with goods or  
3           services;
- 4           (5) Represents that goods or services have sponsorship,  
5           approval, characteristics, ingredients, uses,  
6           benefits, or quantities that they do not have or that  
7           a person has a sponsorship, approval, status,  
8           affiliation, or connection that the person does not  
9           have;
- 10          (6) Represents that goods are original or new if they are  
11          deteriorated, altered, reconditioned, reclaimed, used,  
12          or secondhand;
- 13          (7) Represents that goods or services are of a particular  
14          standard, quality, or grade, or that goods are of a  
15          particular style or model, if they are of another;
- 16          (8) Disparages the goods, services, or business of another  
17          by false or misleading representation of fact;
- 18          (9) Advertises goods or services with intent not to sell  
19          them as advertised;



1 (10) Advertises goods or services with intent not to supply  
2 reasonably expectable public demand, unless the  
3 advertisement discloses a limitation of quantity;

4 (11) Makes false or misleading statements of fact  
5 concerning the reasons for, existence of, or amounts  
6 of price reductions; [~~or~~]

7 (12) Prices the same or substantially similar goods or  
8 substantially similar services differently based on  
9 the gender of the individuals to whom the products are  
10 marketed or for whom the services are marketed,  
11 performed, or offered; provided that this paragraph  
12 shall apply only to persons who are engaged in the  
13 activity of manufacturing and sell the goods they  
14 manufacture to any person in the State for a price  
15 they establish; or

16 [~~(12)~~] (13) Engages in any other conduct which similarly  
17 creates a likelihood of confusion or of  
18 misunderstanding."

19 SECTION 4. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



1           SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Deceptive Trade Practices; Gender-Based Pricing; Gender  
Discrimination; Pink Tax; Gender Tax; Manufacturers

**Description:**

Establishes that gender-based pricing by manufacturers who sell  
the goods they manufacture to any person in the State for a  
price they set constitutes an unlawful deceptive trade practice.  
(SD1)

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not legislation or evidence of legislative intent.*

