



The Senate
The Thirty-First Legislature
Regular Session of 2022

To: Committee on Commerce and Consumer Protection

Date: March 16, 2022

Place: Conference Room 229 - Via Video Conference
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: **HB1516, HD1 Relating to Regulation**

Senator Rosalyn Baker, Chair, Stanley Chang, Vice Chair and Members on the Committee:

RBOAA **Opposes** HB1286, HD1 and would like to offer the following:

This Bill states that its purpose is to prohibit as an unfair and deceptive practice the advertisement of a good or service in the absence of licenses or permits for the good or service, to the extent the licenses or permits are required by applicable state and county laws.

The entire HRS pertinent to unfair and deceptive practices relates to willful misrepresentations to defraud the consumer. What is being proposed in this Bill is not consistent with existing application of these statutes that requires an *actual act* of deception.

This Bill states that neglecting to include a license in an ad becomes the act of unfair and deceptive even if the licensee has every intention of fully providing all the goods or services to the consumer for which they have been issued a license or permit.

This is further inconsistent with the already adopted 481A-3 which states:

(9) Advertises goods or services with the *intent not to sell them as advertised*;

(10) Advertises goods or services with *intent not to supply* reasonably expectable Public demand, unless the advertisement discloses a limitation of quantity;
(emphasis added)

As stated in 9 and 10 above, Unfair and deceptive practices require an intent to not supply or provide the goods or services that are advertised. The lack of a permit in an advertisement does not rise to the level of intent to defraud. Nor does it demonstrate that the licensee/permittee *intends* to not provide the full goods and services that are advertised.

This Bill would have far reaching consequences upon every licensee of the state. For example, every doctor who is licensed would need to include the license information on their website.

For licenses and permits issued by the individual counties, if they require it to be displayed in advertising then there will be a county code violation with associated penalties.

This Bill provides for no warning, due process, and it confers guilt of intent to defraud where no good or service has been involved. It will have far reaching effects on thousands of licensees in the state and penalties of up to \$10,000 is punitive.

We respectfully request that this Bill be deferred.

Respectfully,

Alicia Humiston
Rentals by Owner Awareness Association



March 1, 2022

The Honorable Roslyn H. Baker
Chair, The Senate Committee on Commerce and Consumer Protection
Conference Room 229



Regarding: Testimony in **Support of HB 1516 HD1**

Aloha Chair Baker, Vice-Chair Chang and members of the Senate Committee on Commerce and Consumer Protection:

Mahalo for the opportunity to provide comments on behalf of the Hawaii Hotel Alliance ("HHA") regarding your consideration of HB 1516 HD1.

Like so many industries, the pandemic was a game-changer for tourism. The COVID-19 economic recession left Hawaii's hotels the hardest hit market in the country. For a year, most hotels throughout the State were shut down and/or at occupancy levels that have left many properties operating at a significant loss. Despite the devastating impact that COVID-19 has had on Hawaii's hotels, the industry doubled down on our commitment to our island home and to the most valuable assets we have: the men and women of Hawaii who work in and around our hotels.

Throughout the pandemic, our hotels extended the health and welfare benefits for our furloughed employees and developed life-saving 'Safe Stay' protocols to protect our workers, our guests, and the communities we serve. Our hotels invested directly in community food drives, supported kupuna care, and engaged in countless acts of support for churches, schools, and relief programs. The legitimate visitor industry has worked tirelessly to keep kama'aina safe and healthy while working towards the safe reopening of our hotels. Simply put: our hotel industry will continue its generational commitment to being an integral part of the health of thriving communities across our State because the legitimate visitor industry believes that tourism is additive to support the well-being of those of us who call Hawaii home. The same cannot be said of illegal short-term rentals.

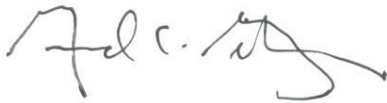
In 2009, Hawaii had 43,000 hotel rooms which ran at high occupancy with seven million visitors to our shores. In 2019, we had the same number of hotel rooms but more than 10.2 million visitors. In the last 20 years, our total hotel room count on Hawaii has actually fallen, while at the same time legal and illegal short-term rentals have exploded, effectively dropping tens of thousands of illegal, unhosted B&B's directly into the heart of some of our most coveted neighborhoods and fragile ecosystems across the State. The vast

majority of these short-term rental operators do not live in Hawaii. While we have made progress in putting tougher laws on the books to deter this criminal activity of operating illegal hotels in our neighborhoods, our hardworking partners at the county have admitted that we still lack the resources and tools to rollout effective and critical enforcement.

As written, HB 1516 HD1 will give the State another tool in the battle against the explosion of illegal short-term rentals by making it more difficult for operators of illegal short-term rentals to list units on hosting platforms. This will allow for better enforcement against the literal thousands of illegal short-term rentals that are taking housing away from local families, clogging our streets, breaking the law, not contributing to our tax base, skirting environmental compliance, non-compliant with basic health and safety regulations, lacking in community contributions, and destroying neighborhoods throughout Hawaii.

Thank you for your consideration of the Hawaii Hotel Alliance's support of HB 1516 HD1.

Mahalo,

A handwritten signature in black ink, appearing to read "Jerry Gibson", with a long, sweeping tail stroke extending to the right.

Jerry Gibson, President
Hawaii Hotel Alliance
Jerry@hawaiihotelalliance.com