

JAN 17 2024

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The legislature finds that providers of
2 transient accommodations are adding junk fees to their
3 advertised rates and prices. Junk fees are hidden and bogus
4 fees that are designed to either confuse or deceive consumers or
5 to take advantage of lock-in or other forms of situational
6 market power. Some examples of junk fees include mandatory fees
7 that are not disclosed until after a transaction commences,
8 surprise fees that consumers learn about after purchase,
9 excessive fees that target consumers who have limited
10 alternative options, and fraudulent fees of which their nature
11 and purpose are misrepresented by the seller. Common
12 undisclosed mandatory fees include hotel resort fees and airline
13 baggage and change fees. These hidden mandatory fees prevent
14 consumers from making informed purchases and knowing how much
15 they are to pay for lodging or airfare. A 2022 report from the
16 White House estimates that Americans have paid over
17 \$8,000,000,000 in hotel and airline junk fees annually.



1 The practice of charging an undisclosed mandatory fee in
2 addition to the advertised price after the purchase process
3 begins is called "drip pricing". Drip pricing misleads
4 consumers of the actual amount they are to pay for a product or
5 service. Studies have found that drip pricing inhibits price
6 competition, while resulting in consumers paying more for a
7 product or service than they initially would have had the actual
8 and total price been advertised. Drip pricing can also create
9 an uneven playing field for businesses by making small and
10 medium companies that price in a fair and transparent manner
11 seem more expensive than their rivals. Drip pricing
12 additionally incentivizes companies to engage in "exploitative
13 innovation", where new junk fees are developed rather than the
14 quality of the product or service.

15 The legislature notes that there is national support to
16 reduce and eliminate the practice of drip pricing. For example,
17 the federal Junk Fee Prevention Act, S. 916. 118th Cong. (2023)
18 was introduced earlier this year to curb and eliminate
19 excessive, hidden, and unnecessary fees that are unexpectedly
20 imposed on consumers. California recently passed the Consumers
21 Legal Remedies Act, 2023, which would make it unlawful to



1 advertise, display, or offer a price for a product or service
2 that does not include all mandatory fees or charges, with
3 exceptions. In October 2023, the Federal Trade Commission
4 proposed a new trade regulation rule entitled the "Rule on
5 Unfair or Deceptive Fees" that would prohibit businesses from
6 advertising prices that hide or omit disclosing mandatory fees,
7 prohibit sellers from misrepresenting fees, and require sellers
8 to disclose upfront the amount and purpose of the fees and
9 whether the fees are refundable. The legislature believes that
10 prohibiting people who pay transient accommodations taxes from
11 charging fees that were not disclosed at the time of purchase
12 and instead requiring them to fully disclose the rate that a
13 consumer is expected to pay upfront will protect consumers from
14 deceptive trade practices.

15 Accordingly, the purpose of this Act is to:

- 16 (1) Prohibit any person from charging any fees on a
17 transient accommodation or resort time share vacation
18 interest, plan, or unit that were not disclosed before
19 the time of purchase;
- 20 (2) Require a person to clearly and conspicuously display
21 in each advertisement for a transient accommodation or



1 resort time share vacation interest, plan, or unit a
2 rate or price that includes all fees to be charged at
3 the time of purchase; and

4 (3) Require any taxes and fees that are displayed as a
5 percentage of the cost on a booking transaction also
6 be displayed as a dollar amount at the time of
7 purchase.

8 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
9 amended by adding a new section to part I to be appropriately
10 designated and to read as follows:

11 **"§481B- Transient accommodations; booking transactions;**
12 **total price; disclosures; junk fees.** (a) No person shall
13 charge any fee for a transient accommodation or resort time
14 share vacation interest, plan, or unit that was not disclosed
15 before the time of purchase.

16 (b) A person shall clearly and conspicuously display in
17 each advertisement for a transient accommodation or resort time
18 share vacation interest, plan, or unit, including online
19 advertisements, a rate or price that includes all fees to be
20 charged at the time of purchase.



1 (c) Any taxes and fees on a booking transaction that are
2 displayed as a percentage of the cost at the time of purchase
3 shall also be displayed as a dollar amount.

4 (d) For the purposes of this section:

5 "Booking transaction" means any transaction in which there
6 is a charge to a consumer by a taxpayer for any transient
7 accommodation or resort time share vacation interest, plan, or
8 unit.

9 "Government entity" has the same meaning as defined in
10 section 137-1.

11 "Resort time share vacation interest", "resort time share
12 vacation plan", "resort time share vacation unit", and
13 "transient accommodations" have the same meanings as defined in
14 section 237D-1."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____



S.B. NO. 2140

Report Title:

Consumer Protection; Transient Accommodations; Booking Transactions; Drip Pricing; Disclosures; Junk Fees

Description:

Prohibits any person from charging any fees on a transient accommodation or resort time share vacation interest, plan, or unit that were not disclosed before the time of purchase. Requires a person to clearly and conspicuously display in each advertisement for a transient accommodation or resort time share vacation interest, plan, or unit a rate or price that includes all fees to be charged at the time of purchase. Requires any taxes and fees that are displayed as a percentage of the cost on a booking transaction also be displayed as a dollar amount at the time of purchase.

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