S.B. NO. <sup>102</sup> S.D. 2 H.D. 2

C.D. 1

# A BILL FOR AN ACT

RELATING TO RESTAURANTS.

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

1 SECTION 1. The legislature finds that unauthorized 2 restaurant reservation listings by third-party restaurant reservation services are misleading to consumers and detrimental 3 4 to restaurant businesses in the State. The legislature also 5 finds that the State has an interest in preventing this 6 substantial misconduct. This Act advances the State's interest 7 by prohibiting third parties from listing restaurant reservation 8 services without the restaurant's knowledge or prior written 9 consent. The legislature further finds that avoiding these 10 harmful effects justifies the restrictions imposed by this Act. 11 Accordingly, the purpose of this Act is to: 12 (1) Prohibit third-party restaurant reservation services 13 from advertising, listing, promoting, facilitating, 14 enabling, or selling restaurant reservation services 15 without first obtaining a written agreement from the

16 applicable restaurant authorizing the action; and

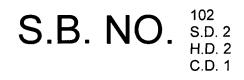
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| 1  | (2) Establish a private cause of action for civil                    |
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| 2  | remedies.  |
| 3  | SECTION 2. Chapter 489J, Hawaii Revised Statutes, is                 |
| 4  | amended by adding a new section to be appropriately designated       |
| 5  | and to read as follows:  |
| 6  | "§489J- Unauthorized restaurant reservations;                        |
| 7  | <b>prohibited.</b> (a) No third-party restaurant reservation service |
| 8  | shall advertise, list, promote, facilitate, enable, or sell          |
| 9  | reservations for a restaurant through the third-party restaurant     |
| 10 | reservation service's website, mobile application, or other          |
| 11 | digital platform unless the restaurant, or a contractual             |
| 12 | designee of the restaurant expressly authorized by the               |
| 13 | restaurant to distribute reservations to a third party, agrees       |
| 14 | in writing for the third-party restaurant reservation service to     |
| 15 | advertise, list, promote, facilitate, enable, or sell                |
| 16 | reservations for that restaurant.                                    |
| 17 | (b) Any person who is charged a fee or price by or through           |
| 18 | a third-party restaurant reservation service for a reservation       |
| 19 | that is advertised, listed, promoted, facilitated, enabled, or       |
| 20 | sold in violation of this section; any restaurant for which a        |
| 21 | third-party restaurant reservation service has advertised,           |

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| 1  | listed, p | romoted, facilitated, enabled, or sold a reservation in |
|----|-----------|---|
| 2  | violation | of this section; or any restaurant's contractual        |
| 3  | designee  | who obtained reservation distribution rights directly   |
| 4  | from the  | restaurant, with respect to a reservation advertised,   |
| 5  | listed, p | romoted, facilitated, enabled, or sold in violation of  |
| 6  | this sect | ion, may bring a civil action in any court of competent |
| 7  | jurisdict | ion for the following:                                  |
| 8  | (1)       | Injunctive relief to restrain or enjoin any activity    |
| 9  |           | in violation of this section;                           |
| 10 | (2)       | Actual damages; provided that the actual damages shall  |
| 11 |           | not exceed the total fees collected by the third-party  |
| 12 |           | restaurant reservation service for the subject          |
| 13 |           | violation; and  |
| 14 | (3)       | Attorneys' fees and costs and any other remedies that   |
| 15 |           | the court deems appropriate.                            |
| 16 | (c)       | Any action alleging a violation of this section shall   |
| 17 | be brough | t within one year of the occurrence of the acts alleged |
| 18 | to have v | iolated this section.                                   |
| 19 | (d)       | For the purposes of this section:                       |
| 20 | "Res      | taurant" means a food establishment in which food is    |
| 21 | provided  | free of charge or sold to consumers for consumption on  |
|    |           |   |





| 1  | or off the premises. "Restaurant" includes dine-in               |
|----|--|
| 2  | establishments, pushcarts, food stands, and vehicles.            |
| 3  | "Third-party restaurant reservation service" means any           |
| 4  | website, mobile application, or other digital platform that:     |
| 5  | (1) Offers or arranges for reserving on-premises service         |
| 6  | for a customer at a restaurant; and                              |
| 7  | (2) Is owned and operated by an entity other than the            |
| 8  | entity that owns the applicable restaurant."                     |
| 9  | SECTION 3. This Act does not affect rights and duties that       |
| 10 | matured, penalties that were incurred, and proceedings that were |
| 11 | begun before its effective date.                                 |
| 12 | SECTION 4. New statutory material is underscored.                |
| 13 | SECTION 5. This Act shall take effect upon its approval.         |





### Report Title:

Restaurants; Reservations; Third-Party Restaurant Reservation Services; Unauthorized Actions; Prohibition; Remedies

### Description:

Prohibits third-party restaurant reservation services from advertising, listing, promoting, facilitating, enabling, or selling restaurant reservations without first obtaining a written agreement from the applicable restaurant authorizing the action. Establishes a private cause of action for civil remedies. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

