

JAN 15 2025

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 PART I

2 SECTION 1. Section 481A-3, Hawaii Revised Statutes, is
3 amended to read as follows:

4 " ~~[f]~~ §481A-3 ~~[f]~~ **Deceptive trade practices.** (a) A person
5 engages in a deceptive trade practice when, in the course of the
6 person's business, vocation, or occupation, the person:

7 (1) Passes off goods or services as those of another;

8 (2) Causes likelihood of confusion or of misunderstanding
9 as to the source, sponsorship, approval, or
10 certification of goods or services;

11 (3) Causes likelihood of confusion or of misunderstanding
12 as to affiliation, connection, or association with, or
13 certification by, another;

14 (4) Uses deceptive representations or designations of
15 geographic origin in connection with goods or
16 services;



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



1 (11) Makes false or misleading statements of fact
2 concerning the reasons for, existence of, or amounts
3 of price reductions; [~~or~~]

4 (12) Advertises, displays, or offers a price for goods or
5 services that does not include all mandatory fees or
6 charges other than either of the following:

7 (A) Taxes or fees imposed by a government on the
8 transaction; or

9 (B) Postage or carriage charges that will be
10 reasonably and actually incurred to ship the
11 physical good to the consumer; or

12 [~~(12)~~] (13) Engages in any other conduct [which] that
13 similarly creates a likelihood of confusion or of
14 misunderstanding.

15 (b) In order to prevail in an action under this chapter, a
16 complainant need not prove competition between the parties or
17 actual confusion or misunderstanding.

18 (c) This section does not affect unfair trade practices
19 otherwise actionable at common law or under other statutes of
20 this State."



1 SECTION 2. Section 481A-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+] §481A-5[+] **Application.** (a) This chapter does not
4 apply to:

5 (1) Conduct in compliance with the orders or rules of, or
6 a statute administered by, a federal, state, or local
7 governmental agency;

8 (2) Publishers, broadcasters, printers, or other persons
9 engaged in the dissemination of information or
10 reproduction of printed or pictorial matters who
11 publish, broadcast, or reproduce material without
12 knowledge of its deceptive character; or

13 (3) Actions or appeals pending on July 14, 1969.

14 (b) Sections 481A-3(a)(2) and 481A-3(a)(3) do not apply to
15 the use of a service mark, trademark, certification mark,
16 collective mark, trade name, or other trade identification that
17 was used and not abandoned before July 14, 1969 if the use was
18 in good faith and is otherwise lawful except for this chapter.

19 (c) Section 481A-3(a)(12) does not apply to persons
20 providing broadband internet access service on its own or as
21 part of a bundle of services in compliance with the broadband



1 consumer label requirements of title 47 Code of Federal
2 Regulations section 8.1(a).

3 For the purposes of this subsection, "broadband internet
4 access service" shall have the same meaning as in title 47 Code
5 of Federal Regulations section 8.1(b)."

6 PART II

7 SECTION 3. Act 137, Session Laws of Hawaii 2017 (Act 137),
8 established vehicle license recovery fees and allowed motor
9 vehicle lessors to pass vehicle license recovery fees on to
10 lessees. Vehicle license recovery fees include motor vehicle
11 weight taxes; fees connected with the registration of specially
12 constructed, reconstructed, or rebuilt vehicles; special
13 interest vehicles or imported vehicles; license plate and emblem
14 fees; inspection fees; highway beautification fees; and any use
15 tax.

16 Prior to Act 137, the motor vehicle rental industry was
17 only allowed to visibly pass on to lessees recurring costs,
18 including general excise taxes, license and registration fees,
19 surcharge taxes, and rents and fees payable to the department of
20 transportation. Act 137 allowed for the passing on of fixed,
21 one-time costs of doing business, including license plate fees



1 and use taxes, in a departure from prior statutory policy
2 favoring the visible pass-on of only recurring government fees
3 and taxes.

4 In addition, the establishment of vehicle license recovery
5 fees created an unfair method for calculating passed-on costs.
6 Prior to Act 137, section 437D-8.4, Hawaii Revised Statutes,
7 authorized the pass-on of fees and taxes prorated at 1/365th of
8 the annual fees and taxes paid on the particular motor vehicle
9 being rented. Thus, the lessee was charged only the amount of
10 fees and taxes directly attributable to the lessee's use of the
11 vehicle. Act 137's increased prorated rate of 1/292nd of
12 vehicle license recovery fees has resulted in overpayments by
13 individual lessees.

14 The legislature further finds that vehicle license recovery
15 fees are an attempt by rental car companies to advertise low
16 base rates but subtly increase the actual per-day rental rate by
17 greatly increasing the applicable taxes and fees passed on to
18 lessees, which may be detrimental to Hawaii's tourism industry.

19 Therefore, the purpose of this Act is to:

- 20 (1) Repeal the definition of "vehicle license recovery
21 fees";



1 (2) Repeal the amendments made to section 437D-8.4, Hawaii
2 Revised Statutes, by Act 137; and

3 (3) Repeal the requirement that rental car companies
4 submit annual audits to the office of consumer
5 protection of the department of commerce and consumer
6 affairs.

7 SECTION 4. Section 437D-3, Hawaii Revised Statutes, is
8 amended by deleting the definition of "vehicle license recovery
9 fees".

10 [~~"Vehicle license recovery fees" includes motor vehicle~~
11 ~~weight taxes under section 249-2; fees connected with the~~
12 ~~registration of specially constructed, reconstructed, or rebuilt~~
13 ~~vehicles, special interest vehicles, or imported vehicles as~~
14 ~~referenced in section 286-41(c); license plate and emblem fees~~
15 ~~under section 249-7(b); inspection fees as referenced in section~~
16 ~~286-26; highway beautification fees as referenced in section~~
17 ~~286-51(b)(1); and any use tax under chapter 238."]~~

18 SECTION 5. Section 437D-8.4, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Notwithstanding any law to the contrary, a lessor may
21 visibly pass on to a lessee:



- 1 (1) The general excise tax attributable to the
- 2 transaction;
- 3 (2) The vehicle license [~~recovery fees,~~] and registration
- 4 fee and weight taxes, prorated at [~~1/292nd~~] 1/365th of
- 5 the annual vehicle license [~~recovery fees~~] and
- 6 registration fee and weight taxes actually paid on the
- 7 particular vehicle being rented for each full or
- 8 partial twenty-four-hour rental day that the vehicle
- 9 is rented; provided that the total of all vehicle
- 10 license [~~recovery~~] and registration fees charged to
- 11 all lessees shall not exceed the annual vehicle
- 12 license [~~recovery fees~~] and registration fee actually
- 13 paid for the particular vehicle rented;
- 14 (3) The surcharge taxes imposed in chapter 251
- 15 attributable to the transaction;
- 16 (4) The county surcharge on state tax under section
- 17 46-16.8; provided that the lessor itemizes the tax for
- 18 the lessee; and
- 19 (5) The rents or fees paid to the department of
- 20 transportation under concession contracts negotiated
- 21 pursuant to chapter 102, service permits granted



1 pursuant to title 19, Hawaii Administrative Rules, or
2 rental motor vehicle customer facility charges
3 established pursuant to section 261-7; provided that:

4 (A) The rents or fees are limited to amounts that can
5 be attributed to the proceeds of the particular
6 transaction;

7 (B) The rents or fees shall not exceed the lessor's
8 net payments to the department of transportation
9 made under concession contract or service permit;

10 (C) The lessor submits to the department of
11 transportation and the department of commerce and
12 consumer affairs a statement, verified by a
13 certified public accountant as correct, that
14 reports the amounts of the rents or fees paid to
15 the department of transportation pursuant to the
16 applicable concession contract or service permit:

17 (i) For all airport locations; and

18 (ii) For each airport location;

19 (D) The lessor submits to the department of
20 transportation and the department of commerce and
21 consumer affairs a statement, verified by a



- 1 certified public accountant as correct, that
2 reports the amounts charged to lessees:
3 (i) For all airport locations;
4 (ii) For each airport location; and
5 (iii) For each lessee;
- 6 (E) The lessor includes in these reports the
7 methodology used to determine the amount of fees
8 charged to each lessee; and
- 9 (F) The lessor submits the above information to the
10 department of transportation and the department
11 of commerce and consumer affairs within three
12 months of the end of the preceding annual
13 accounting period or contract year as determined
14 by the applicable concession agreement or service
15 permit.

16 The respective departments, in their sole discretion,
17 may extend the time to submit the statement required
18 in this subsection. If the director determines that
19 an examination of the lessor's information is
20 inappropriate under this subsection and the lessor
21 fails to correct the matter within ninety days, the



1 director may conduct an examination and charge a
2 lessor an examination fee based upon the cost per hour
3 per examiner for evaluating, investigating, and
4 verifying compliance with this subsection, as well as
5 additional amounts for travel, per diem, mileage, and
6 other reasonable expenses incurred in connection with
7 the examination, which shall relate solely to the
8 requirements of this subsection, and which shall be
9 billed by the departments as soon as feasible after
10 the close of the examination. The cost per hour shall
11 be \$40 or as may be established by rules adopted by
12 the director. The lessor shall pay the amounts billed
13 within thirty days following the billing. All moneys
14 collected by the director shall be credited to the
15 compliance resolution fund."

16 SECTION 6. Act 137, Session Laws of Hawaii 2017, is
17 amended by repealing section 5.

18 "~~SECTION 5. [Beginning March 1, 2019, all rental car~~
19 ~~companies shall submit an annual audit, to be conducted by a~~
20 ~~third party certified public accountant, to the office of~~



1 ~~consumer protection of the department of commerce and consumer~~
2 ~~affairs by July 1 of every year.] Repealed."~~

3 PART III


4 SECTION 7. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval;
10 provided that the amendments made to section 437D-8.4(a), Hawaii
11 Revised Statutes, by section 5 of this Act shall not be repealed
12 when that section is reenacted on December 31, 2030, pursuant to
13 section 9 of Act 247, Session Laws of Hawaii 2005, as amended by
14 section 7 of Act 240, Session Laws of Hawaii 2015, as amended by
15 section 6 of Act 1, Special Session Laws of Hawaii 2017.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'ASL', is written over a horizontal line.



S.B. NO. 50

Report Title:

Deceptive Trade Practices; Motor Vehicle Rental Industry; Hidden Fees; False Advertising; Vehicle License Recovery Fees; Fees; Weight Taxes

Description:

Part I: Establishes as a deceptive practice advertising, displaying, or offering a price for goods or services that does not include all mandatory fees or charges, subject to certain exceptions. Part II: Repeals the definition of "vehicle license recovery fees". Limits to vehicle license and registration fees and weight taxes the fees and taxes that a motor vehicle lessor may pass on to a lessee. Amends the prorated amount of vehicle license and registration fees and weight taxes that a motor vehicle lessor may pass on to a lessee. Repeals the requirement that rental car companies submit annual audits to the Office of Consumer Protection of the Department of Commerce and Consumer Affairs.

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

