

ACT 59

S.B. NO. 2738

A Bill for an Act Relating to Unfair and Deceptive Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 437D-19, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§437D-19~~]]~~ Civil penalties. Any person who violates or attempts to violate any provision of this chapter shall be [fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil suit brought by the office of consumer protection or the department of commerce and consumer affairs. Each day or instance of violation shall be deemed a separate violation and shall subject the person to a separate civil penalty.] deemed to have engaged in an unfair and deceptive act or practice in the conduct of trade or commerce within the meaning of section 480-2.”

SECTION 2. Section 477E-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§477E-5~~]]~~ Penalties.] Civil penalties. Any creditor who violates or attempts to violate any provision of this chapter shall be [fined by a sum not less than \$500 nor more than \$2,500 for each violation, which sum shall be collected in a civil action brought by the director of the office of consumer protection.] deemed to have engaged in an unfair and deceptive act or practice in the conduct of trade or commerce within the meaning of section 480-2.”

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

“[[§481B-1]] Unsolicited goods, etc., unconditional gift. [(a)] No person, firm, partnership, association, or corporation, or agent or employee thereof, shall, in any manner, or by any means, offer for sale goods, property, or merchandise, where the offer includes the voluntary and unsolicited sending of goods, property, or merchandise not actually ordered or requested by the recipient, either orally or in writing. The receipt of any such unsolicited goods, property, or merchandise shall for all purposes be deemed an unconditional gift to the recipient who may use or dispose of the same in any manner the recipient sees fit without any obligation on the recipient’s part to the sender.

[(b)] The voluntary and unsolicited sending of goods, property, or merchandise not actually ordered or requested by the recipient as provided in subsection (a) shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce under chapter 480.]”

SECTION 4. Section 481B-4, Hawaii Revised Statutes, is amended to read as follows:

“§481B-4 Penalty. Any person who violates this chapter shall be [fined not more than \$500 for each violation or imprisoned not more than one year or both.] deemed to have engaged in an unfair method of competition or unfair and deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2.”

SECTION 5. Section 481B-6, Hawaii Revised Statutes, is amended to read as follows:

“[[§481B-6]] Sale of solar energy devices; disclosure requirements; penalty. (a) No person shall advertise, offer to sell, or sell a solar energy device unless the person clearly discloses separately the following information concerning the sale price of the solar energy device to the consumer:

- (1) The cost of the solar energy device and accessories related to the operation of the solar energy device and for their installation; and
- (2) The cost of items unrelated to the operation of the solar energy device, including but not limited to, “free gifts”, offers to pay electric bills, rebates, and other incentives designed to promote the sale of the solar device.

(b) As used in this section, “solar energy device” means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation.

[(c)] Failure to disclose the information required under this section shall constitute an unfair method of competition and an unfair or deceptive act or practice in the conduct of any trade or commerce under section 480-2.]”

SECTION 6. Section 481B-11, Hawaii Revised Statutes, is amended to read as follows:

“§481B-11 Refunds; offer of services. [(a)] Any person who deposits any money to attend a sensitivity-awareness group seminar and before the first day of the seminar, requests to cancel his or her right to attend and requests a refund of moneys deposited or paid, shall be refunded in full less identifiable nonrecoverable costs not to exceed the lesser of \$50 or twenty per cent of the price of the course, by the sensitivity-awareness group. Any person who while attending or after completing a sensitivity-awareness seminar, deposits any money to attend subsequent seminars of

a sensitivity-awareness group and within five days of making the deposit or before the first day of the subsequent seminar, whichever occurs later, requests to cancel his or her right to attend and requests a refund of moneys deposited or paid, shall be refunded in full less identifiable nonrecoverable costs not to exceed the lesser of \$50 or twenty per cent of the price of the course, by the sensitivity-awareness group. Any offering of a sensitivity-awareness group seminar by a representative of the sensitivity-awareness group sponsoring the sensitivity-awareness group seminar shall disclose to the offeree these rights of refund.

For purposes of this section, "sensitivity-awareness groups" includes any individual, associated group of persons, or organizations which advertise or assert that attendance by persons at seminars, meetings, training sessions, therapy sessions, or the like sponsored by the individual, group, or organization, will help the persons attending have greater self-awareness or awareness of others, greater self-understanding or understanding of others, or greater capacity for life adjustment or success in life; provided that psychological or psychotherapeutic techniques are used as part of the individual's, group's, or organization's methodology at the seminars, meetings, training sessions, therapy sessions, or the like. The term "sensitivity-awareness groups" does not include licensed psychologists, or psychologists with a temporary permit, in accordance with chapter 465, or a psychiatrist licensed in accordance with chapter 453, who teach, direct, administer, conduct, preside over, or are similarly involved in seminars, meetings, training sessions, therapy sessions, or the like.

"Sensitivity-awareness group seminars" means any seminar, meeting, training session, therapy session, or the like sponsored by a sensitivity-awareness group for which monetary compensation is required from persons to attend.

[(b) Any violation of this section shall constitute an unfair method of competition and unfair or deceptive act or practice in the conduct of any trade or commerce under section 480-2.]"

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

SECTION 8. This Act shall take effect upon its approval.

(Approved April 24, 1996.)