

---

# A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

**PART I**

1  
2 SECTION 1. The legislature finds that many merchants have  
3 return policies that impose processing or administrative fees on  
4 consumers to effectuate a warranty claim on damaged or defective  
5 goods. However, the legislature concludes that a consumer who  
6 purchases a damaged or defective product should be able to  
7 return it for repair, replacement, or refund without having to  
8 bear additional costs.

9 Accordingly, the purpose of this part is to prohibit a  
10 merchant from charging a purchaser any fee, including a  
11 processing fee or an administrative fee, to repair, replace, or  
12 refund damaged or defective goods.

13 SECTION 2. Section 481B-5.5, Hawaii Revised Statutes, is  
14 amended by amending subsection (1) to read as follows:

15 "(1) Any return [~~policies~~] policy adopted by the merchant  
16 pursuant to this section that limits the purchaser's ability to  
17 obtain a refund shall not apply if the goods were damaged or  
18 defective prior to the time of sale, unless the merchant was



1 aware of the damage or defect and notified the purchaser of the  
2 damage or defect in writing prior to the time of sale. A  
3 merchant shall not charge a purchaser any fee, including a  
4 processing fee or an administrative fee, to repair, replace, or  
5 refund goods pursuant to this subsection."

6 **PART II**

7 SECTION 3. The legislature finds that consumers are often  
8 confused or misled by offers that high turnover restaurant  
9 franchises make in their national advertising campaigns.  
10 Furthermore, while an advertisement may state that an offer is  
11 not available in Hawaii, this disclosure is often in tiny print  
12 and does not sufficiently inform consumers that the offer is  
13 unavailable.

14 Accordingly, the purpose of this part is to ensure that  
15 consumers are sufficiently aware when an offer under a high  
16 turnover restaurant franchise's advertising campaign is not  
17 available in Hawaii by:

18 (1) Requiring high turnover restaurant franchisees to  
19 disclose their non-participation in national  
20 advertising campaigns of the franchise in which  
21 discounts or promotions are offered; and



1 (2) Prohibiting franchisors from limiting or restricting  
2 these disclosures.

3 SECTION 4. Chapter 481B, Hawaii Revised Statutes, is  
4 amended by adding a new section to part I to be appropriately  
5 designated and to read as follows:

6 "§481B- High turnover restaurant franchise; advertising  
7 campaigns; non-participation. (a) If a high turnover  
8 restaurant franchisee does not participate in a specific  
9 national advertising campaign of the high turnover restaurant  
10 franchise in which a discount or a promotion is offered, the  
11 franchisee shall disclose its non-participation at its entrance  
12 or storefront with signage of a size sufficient to be clearly  
13 visible to the general public.

14 (b) No high turnover restaurant franchisor may impose a  
15 restriction or condition upon its franchisee, whether by the  
16 terms of the franchise agreement or by other device or practice,  
17 in making the required disclosure under subsection (a).

18 (c) For the purposes of this section:

19 "High turnover restaurant" means a restaurant that is a  
20 sit-down, full-service eating establishment with typical  
21 duration of customer stay of approximately one hour; that is



1 moderately priced and belongs to a restaurant chain; that  
2 generally serves lunch and dinner, but may also be open for  
3 breakfast, and sometimes be open twenty-four hours per day; that  
4 typically does not take reservations; and in which patrons  
5 commonly wait to be seated, are served by a wait staff, order  
6 from menus, and pay for meals after they eat. "High turnover  
7 restaurant" does not include a fast food restaurant.

8 "Fast food restaurant" means an eating establishing that is  
9 characterized by a large carry-out clientele, long hours of  
10 service, and food served on paper plates or paper products. It  
11 commonly does not provide table service and its patrons  
12 generally order at a cash register and pay before they eat."

13 **PART III**

14 SECTION 5. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect upon its approval;  
20 provided that part II shall be repealed on July 1, 2023.



**Report Title:**

Merchandise; Returns; Unfair or Deceptive Trade Acts or Practices; Repair; Replacement; Refund; High Turnover Restaurants; Franchisees; Franchisors; Advertising Campaigns; Non-participation

**Description:**

Part I: Prohibits a merchant from charging a purchaser any fee, including a processing fee or an administrative fee, to repair, replace, or refund damaged or defective goods. Part II: Requires high turnover restaurant franchisees to disclose their non-participation in national advertising campaigns of the franchise in which discounts or promotions are offered. Prohibits the high turnover restaurant franchisor from limiting or restricting the disclosures. Part II sunsets on 7/1/2023.  
(HB1621 CD1)

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

