
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. Section 481B-5.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) As used in this section, unless the context otherwise
5 requires:

6 "Ancillary charges" includes all charges paid to the
7 merchant that are necessary for the use of the goods for their
8 purchased purpose and all sums paid for agreements for service,
9 warranty, or replacement.

10 "Conspicuous sign" means a sign posted in the merchant's
11 place of business in a location reasonably calculated to bring
12 the sign to the attention of purchasers before a purchaser makes
13 a purchase.

14 "Exchange" means a transaction between a merchant and a
15 purchaser in which a previously purchased item is exchanged for
16 another item.



1 "Full amount of the payment" includes the amount paid for
2 the returned goods, including any ancillary charges or taxes
3 incident to the purchase of the returned goods, and without any
4 deduction for restocking of the merchant's inventory, or for
5 administration of the refund, exchange, or merchandise credit.

6 "Merchandise credit" means the crediting to the purchaser
7 of the full amount of the payment upon return of the goods and
8 allowing the purchaser to purchase goods from the merchant with
9 the merchandise credit, or applying to the purchaser's credit
10 account with the merchant, in the amount of the merchandise
11 credit.

12 "Merchant" means any person engaged in the business of
13 offering goods for sale to purchasers at retail.

14 "Merchant in the State" means any merchant that:

- 15 (1) Is created under the laws of the State, including but
16 not limited to chapter 414, 414D, 415A, 425, 425E, or
17 428;
18 (2) Is authorized to transact business in the State; or
19 (3) Possesses a current unexpired Hawaii general excise
20 tax license.



1 "Proof of purchase" means a sales slip, receipt, credit
2 card slip, or any other documentation that substantiates the
3 sale of the goods from the merchant and the amount of payment.

4 "Purchaser" means a natural person who is returning goods
5 that were purchased or received primarily for personal, family,
6 or household purposes.

7 "Refund" means the return to the purchaser of the full
8 amount of the payment upon return of the goods, in accordance
9 with this section.

10 "Repacking and transportation charges" means the charges
11 for repacking, pick up, and transportation of goods previously
12 delivered, unpacked, and set up by the merchant at the direction
13 of the purchaser.

14 "Return" or "return of goods" means the acceptance by the
15 merchant of goods from a purchaser, whether for refund,
16 merchandise credit, or exchange, and includes the cancellation
17 of a custom or special order before the merchant is obligated to
18 make payment on the order and the cancellation of a layaway."

19 2. By amending subsection (1) to read:

20 "(1) Any return policies adopted by the merchant pursuant
21 to this section that limits the purchaser's ability to obtain a



1 refund shall not apply if the goods were damaged or defective
2 prior to the time of sale, unless the merchant was aware of the
3 damage or defect and notified the purchaser of the damage or
4 defect in writing prior to the time of sale. No warranty policy
5 adopted by a merchant in the State shall require a purchaser to
6 pay an additional fee to obtain a repair, replacement, or refund
7 for goods returned pursuant to the warranty."

8 SECTION 2. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Merchandise; Returns; Unfair and Deceptive Trade Practices;
Warranty Policy; Repair; Replacement; Refund

Description:

Prohibits a merchant in the State from adopting a warranty policy that requires a purchaser to pay an additional fee to obtain a repair, replacement, or refund for goods returned pursuant to the warranty. Defines "merchant in the State".
(SD1)

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