

Honolulu, Hawaii

MAY 12 2020

RE: H.B. No. 1678
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 1678, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MUSICAL PERFORMANCES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit a person from advertising or conducting a live musical performance or production through the use of a false, deceptive, or misleading affiliation, connection, or association with a performing group and recording group; and
- (2) Allow a court to grant restitution.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs and one individual.

Your Committee finds that there are a number of famous legacy musical acts scheduled to perform in the State in venues that contain a wide variety of attendees. This measure would protect the intellectual property of musical artists and consumers from deceptive practices by prohibiting advertising or conducting live performances of legacy performing groups, unless the performance



includes one member of the original group, is identified as a tribute band, or the group is an authorized owner of a federal service mark for the original group.

Your Committee further notes that S.B. No. 2354, S.D. 1 is a substantially similar measure that was previously passed by the Senate, that prohibits a person from advertising or conducting a live musical performance through the use of deceptive affiliation under certain conditions, imposes penalties, and enables private rights of action. Your Committee concludes that the language in S.B. No. 2354, S.D. 1 is preferable to effectuate consumer protections against deceptive practices and provide remedies.

Accordingly, your Committee has amended this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 2354, S.D. 1, a measure that:
 - (A) Establishes a new chapter to be appropriately designated in the Hawaii Revised Statutes to be cited as the Truth in Music Advertising Act;
 - (B) Defines "performing group", "recording group", and "sound recording";
 - (C) Provides that a person may not advertise or conduct a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection, or association between a performing group and a recording group in certain circumstances;
 - (D) Establishes that each performance or production in violation of the measure constitutes a separate violation and shall be treated as an unfair or deceptive practice under section 480-2, Hawaii Revised Statutes;
 - (E) Authorizes the Department of the Attorney General to bring an action in the name of the State to refrain a violation by temporary or permanent injunction and authorizes a court to make additional order or judgments as necessary to

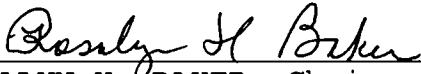


restore money or other property that may have been acquired because of a violation; and

- (F) Authorizes a civil cause of action for appropriate legal and equitable relief;
- (2) Inserting a purpose section;
- (3) Inserting an effective date of upon approval; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1678, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1678, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



