

STAND. COM. REP. NO. 578

Honolulu, Hawaii

MAR 05 2015

RE: S.B. No. 464
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 464 entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit agreements that include introductory free trial periods for the purchase of periodic delivery of merchandise, services, or internet access unless the consumer explicitly and affirmatively consents to being billed for automatic renewal, continuous delivery, or service beyond the last date of the free trial period.

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

Your Committee finds that introductory free trial offers are used to incentivize consumers to agree to accept a purchase of periodic delivery of merchandise or services. According to testimony received by your Committee from the Office of Consumer Protection, the means to cancel free trial offers associated with automatic renewal clauses should be clearly and conspicuously disclosed and require the consumer to provide an explicit acknowledgment and affirmative consent to any agreement. The underlying policy behind this is to help ensure that Hawaii consumers are made fully aware of all of the terms and conditions of the agreement.

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This measure adds a new section to chapter 481B, Hawaii Revised Statutes, relating to unfair and deceptive practices. However, your Committee finds that the most appropriate way to protect Hawaii consumers from the problems associated with free trial offers is to amend section 481-9.5, Hawaii Revised Statutes, relating to automatic renewal clauses. Amendments to this measure are therefore necessary.

Your Committee further finds that additional amendments to section 481-9.5, Hawaii Revised Statutes, are necessary to ensure adequate safeguards for consumers subject to automatic renewal clauses. These safeguards will help protect Hawaii consumers from abuses associated with automatic renewal clauses involving disclosures relating to acknowledgment and affirmative consent, use of credit and debit cards, and cancellation rights.

Accordingly, your Committee has amended this measure by:

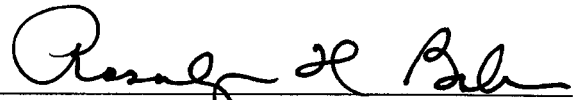
- (1) Deleting language that would have added a new section on free trial offers in chapter 481B, Hawaii Revised Statutes, relating to unfair and deceptive practices;
- (2) Amending section 481-9.5, Hawaii Revised Statutes, relating to automatic renewal clauses, by requiring:
 - (A) Persons charging a consumer's credit or debit card or account with a third party for automatic renewal or continuous service to first obtain the consumer's acknowledgment and affirmative consent;
 - (B) An acknowledgment regarding automatic renewal or continuous service offer terms, the cancellation policy, and information on how to cancel to be provided in a manner capable of being retained by the consumer;
 - (C) Free trial offers to clearly and conspicuously disclose how to cancel the agreement prior to the consumer being charged for goods and services;
 - (D) Clear and conspicuous disclosure of a timely and easy-to-use mechanism for cancellation; and



- (E) Clear and conspicuous notice of material changes in the terms of an automatic renewal or continuous service offer that has been accepted by a consumer in Hawaii and information on how to cancel service in a manner that can be retained by the consumer;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 464, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 464, S.D. 1, and be placed on the calendar for Third Reading.

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




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 464	CPN	2-19-15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)				✓
KAHELE, Gilbert	✓			
KIDANI, Michelle N.	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn				✓
SLOM, Sam				✓
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes