

STAND. COM. REP. NO. 794

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 827
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health, to which was referred S.B. No. 827 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 merchants 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.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs. Your Committee received testimony in opposition to this measure from Retail Merchants of Hawaii. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that some merchants charge customers a processing fee, even when a warranted product is being returned because of a manufacturer's defect. Your Committee further finds that setting fees as a precondition for using a warranty is improper, as this shifts the cost to process a refund onto a customer and prevents customers from utilizing their warranties. Your Committee notes that these fees should not be passed onto the consumer but should be borne by the merchant.

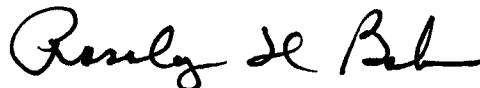


Your Committee has amended this measure by:

- (1) Adopting the amendment suggested by the Department of the Attorney General to add a definition of "merchant in the State" for clarity and to preclude Commerce Clause challenges; and
- (2) Making technical, nonsubstantive amendments for the 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 S.B. No. 827, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 827, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* SB 827	Committee Referral: CPH	Date: 2/22/19		
<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)	/			
CHANG, Stanley (VC)				/
KEOHOKALOPE, Jarrett	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
THIELEN, Laura H.	/			
FEVELLA, Kurt	/			
TOTAL	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Clarence K. Nishihara</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes