

STAND. COM. REP. NO. 440

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 1398  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1398 entitled:

"A BILL FOR AN ACT RELATING TO AGE DISCRIMINATION,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit businesses that sell age-restricted goods from requiring disclosure of a customer's date of birth if it is clear that the individual has attained the age required to make a purchase.

Your Committee received testimony in opposition to this measure from Retail Merchants of Hawaii and ABC Stores.

Your Committee finds that certain retailers may restrict a customer from purchasing age-restricted items simply because they cannot produce identification to verify their age, despite it being highly probable that the customer is over the required age to purchase the age-restricted items. Retailer policies may also require older customers to verbally disclose their birthdates within earshot of other customers, which can subject elderly residents to discrimination.

Your Committee notes the concerns raised in testimony that, because of a number of factors including make-up or apparel, it can be difficult to determine someone's age, and accordingly, retailers should be allowed to request identification when it is



not immediately certain to the cashier that a customer has reached the minimum age required to purchase the age-restricted goods. However, whereas a cashier may ask a younger customer to see identification, a cashier may verbally ask an older customer for their birth date, which may be considered confidential and discriminatory. Therefore, amendments to this measure are necessary to address these concerns.

Lastly, your Committee finds the definition of "clear and convincing standard" as currently drafted in this measure requires additional clarification and requests your Committee on Judiciary to further examine this issue.

Your Committee has amended this measure by:

- (1) Clarifying that no business that sells age-restricted goods shall require a customer to verbally verify or verbally disclose the customer's age when purchasing age-restricted goods if the seller determines by a clear and convincing standard that the purchaser has reached the minimum age required for the purchase of age-restricted goods; 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 and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1398, S.D. 1, and be referred to your Committee on Judiciary.

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

  
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ROSALYN H. BAKER, Chair



