
A BILL FOR AN ACT

RELATING TO DISCRIMINATORY PRACTICES.

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

1 SECTION 1. The legislature finds that the State of Hawaii
2 has strong laws against discrimination in employment on the
3 basis of disability, which are embodied in sections 378-1 and
4 378-2, Hawaii Revised Statutes, and rules adopted by the civil
5 rights commission. In many respects, state law provides
6 stronger protections than those provided under federal law
7 prohibiting employment discrimination based on disability. The
8 legislature recognizes that pursuant to California Federal Sav.
9 and Loan Ass'n v. Guerra, 479 U.S. 272, 107 S.Ct. 683 (1987),
10 federal law is a "floor" beneath which protections against
11 discrimination should not drop, rather than a "ceiling" above
12 which protections cannot rise under state anti-discrimination
13 laws.

14 The legislature further finds that on September 25, 2008,
15 President George W. Bush signed into law the ADA Amendments Act
16 of 2008, P.L. 110-325 ("ADAAA"). In the ADAAA, Congress found
17 that several United States Supreme Court decisions interpreted

1 the definition of disability inconsistently with legislative
2 intent. The ADAAA clarified laws relating to employment
3 disability, broadening the definition of disability and
4 resulting in certain federal law protections that are stronger
5 than corresponding protections currently provided under Hawaii
6 state law.

7 The purpose of this Act is to require the Hawai'i civil
8 rights commission to adopt administrative rules to define
9 certain terms to conform state law protections against
10 disability discrimination in employment to recently amended
11 federal law.

12 SECTION 2. The Hawaii civil rights commission, pursuant to
13 its authority under section 368-3(9), Hawaii Revised Statutes,
14 shall adopt rules to define or amend, as applicable, the
15 following terms for purposes of chapter 378, Hawaii Revised
16 Statutes: "low-vision devices"; "major life activities";
17 "ordinary eyeglasses or contact lenses"; "Being regarded as
18 having such an impairment"; and "disability". The Hawaii civil
19 rights commission may define such other terms as necessary to
20 effectuate the purposes of chapter 378, Hawaii Revised Statutes,
21 consistent with section 1 of this Act.

1 SECTION 3. The Hawaii civil rights commission shall
2 complete the rulemaking process for purposes of section 2 of
3 this Act no later than December 31, 2009.

4 SECTION 4. Until the completion of the rulemaking under
5 section 3 of this Act, the Hawaii civil rights commission shall
6 apply, at minimum, the definitions in the American with
7 Disabilities Act Amendments Act (ADAAA); provided that the
8 definition of "disability" under section 378-1, Hawaii Revised
9 Statutes, and the implementing administrative rules thereto
10 shall be construed at minimum to conform to the ADAAA.

11 SECTION 5. This Act shall take effect upon its approval.

Report Title:

Employment; Discriminatory Practices; Disability

Description:

Requires the Hawaii civil rights commission to define in administrative rules certain definitions for purposes of discriminatory employment practices. (SD2)