
A BILL FOR AN ACT

RELATING TO EMPLOYMENT PRACTICES.

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

1 SECTION 1. Section 378-32, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§378-32 Unlawful suspension, discharge, or
4 discrimination. (a) It shall be unlawful for any employer to
5 suspend, discharge, or discriminate against any of the
6 employer's employees:

7 (1) Solely because the employer was summoned as a
8 garnishee in a cause where the employee is the debtor
9 or because the employee has filed a petition in
10 proceedings for a wage earner plan under Chapter
11 [~~XIII~~] 13 of Title 11 United States Code, the
12 Bankruptcy [~~Act; or~~] Code;

13 (2) Solely because the employee has suffered a work injury
14 [~~which~~] that arose out of and in the course of the
15 employee's employment with the employer and [~~which~~]
16 that is compensable under chapter 386, unless the
17 employee is no longer capable of performing the
18 employee's work as a result of the work injury and the



1 employer has no other available work [~~which~~] that the
2 employee is capable of performing. Any employee who
3 is discharged because of the work injury shall be
4 given first preference of reemployment by the employer
5 in any position [~~which~~] that the employee is capable
6 of performing and [~~which~~] that becomes available after
7 the discharge and during the period thereafter until
8 the employee secures new employment. This paragraph
9 shall not apply to any employer in whose employment
10 there are less than three employees at the time of the
11 work injury or who is a party to a collective
12 bargaining agreement [~~which~~] that prevents the
13 continued employment or reemployment of the injured
14 employee;

15 (3) Because the employee testified or was subpoenaed to
16 testify in a proceeding under this part; or

17 (4) Because an employee tested positive for the presence
18 of drugs, alcohol, or the metabolites of drugs in a
19 substance abuse on-site screening test conducted in
20 accordance with section 329B-5.5; provided that this
21 provision shall not apply to an employee who fails or



1 refuses to report to a laboratory for a substance
2 abuse test pursuant to section 329B-5.5.

3 (b) It shall be an unlawful practice for an employer or
4 labor organization to bar or discharge from employment, withhold
5 pay from, or demote an employee solely because the employee
6 legitimately uses accrued and available negotiated sick leave in
7 accordance with the employer's attendant and negotiated sick
8 leave policies, except for abuse of sick leave.

9 (c) Employers and labor organizations are not prohibited
10 from barring or discharging from employment, withholding pay
11 from, or demoting an employee if the employee is unable to
12 fulfill the essential job functions or requirements of the
13 employee's position.

14 (d) Subsections (b) and (c) shall apply only to employers
15 who have:

16 (1) A collective bargaining agreement with their
17 employees; and

18 (2) One hundred or more employees."

19 SECTION 2. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2050.

4



Report Title:

Employment Practices

Description:

Makes it an unlawful practice for any employer or labor organization to bar or discharge from employment, withhold pay from, or demote an employee because the employee legitimately uses accrued and available sick leave. Limited to employers with one hundred or more employees that is covered by a collective bargaining agreement. Exempts cases where an employee is unable to fulfill essential job functions or abuses the use of sick leave. Effective 7/1/2050. (SD1)

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