
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 XIII
11 of the Bankruptcy Act; or

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



1 performing. Any employee who is discharged because of
2 the work injury shall be given first preference of
3 reemployment by the employer in any position which the
4 employee is capable of performing and which becomes
5 available after the discharge and during the period
6 thereafter until the employee secures new employment.
7 This paragraph shall not apply to any employer in
8 whose employment there are less than three employees
9 at the time of the work injury or who is a party to a
10 collective bargaining agreement which prevents the
11 continued employment or reemployment of the injured
12 employee; or

13 (3) Because the employee testified or was subpoenaed to
14 testify in a proceeding under this part.

15 (b) It shall be an unlawful practice for any employer or
16 labor organization to bar or discharge from employment, withhold
17 pay from, or demote an employee because the employee uses
18 accrued and available sick leave. If the illness or injury
19 requires the use of more than one day of accrued and available
20 sick leave, the injury or illness shall be validated, in
21 writing, by the employee's physician . In the event that an
22 employee uses accrued or available sick leave as stated above



1 three times over a six-month period, the employer may mandate
 2 the ill or injured employee be medically evaluated by a
 3 physician of the employee's choice from an employer's healthcare
 4 provider list of no fewer than three physicians. It shall not
 5 be a violation of this section if the employer or labor
 6 organization's actions are in accordance with the provisions of
 7 a valid negotiated attendance policy."

8 SECTION 2. This Act does not affect rights and duties that
 9 matured, penalties that were incurred, and proceedings that were
 10 begun, before its effective date.

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: K:ric Caldwell

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JAN 24 2006



HB 2696

Report Title:

Sick leave; employment practices

Description:

Prohibits an employer or labor organization from discharging or barring from employment, withholding pay from, or demoting an employee who uses accrued and available sick leave.

