
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 discrimination.**

4 (a) It shall be unlawful for any employer to suspend, discharge,
5 or discriminate against any of the employer's employees:

6 (1) Solely because the employer was summoned as a
7 garnishee in a cause where the employee is the debtor
8 or because the employee has filed a petition in
9 proceedings for a wage earner plan under Chapter XIII
10 of the Bankruptcy Act; or

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



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

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

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

PROPOSED

S.B. NO. 3021
S.D. 2

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

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

10 SECTION 3. New statutory material is underscored.

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

PROPOSED

Report Title:

Employment Practices; Sick Leave

Description:

Prohibits an employer from discharging or otherwise punishing an employee for the lawful use of the employee's accrued and available sick leave. Effective 7/1/2050. (SD2)

