
A BILL FOR AN ACT

RELATING TO WORKSITE WELLNESS PROGRAMS.

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

1 SECTION 1. Although we spend more dollars on healthcare
2 than any other industrialized nation, our citizens are not the
3 healthiest in the world. The United States spent over two
4 trillion dollars on healthcare in 2005 or \$6,683 for every man,
5 woman, and child. Employers pay over one-third of these costs.
6 Much of these costs come from the diagnosis and treatment of
7 chronic diseases and conditions such as diabetes, obesity,
8 cardiovascular disease, and asthma. Researchers have estimated
9 that preventable illness makes up approximately seventy per cent
10 of the burden of illness and the associated costs. According to
11 the Centers for Disease Control and Prevention, approximately
12 one hundred twenty-nine million United States adults are
13 overweight or obese, which costs this nation anywhere from
14 \$69,000,000,000 to \$117,000,000,000 per year. In Hawaii,
15 approximately thirty-three per cent of the population is
16 overweight and another twenty per cent is obese.

17 For many Americans, individual behavior and lifestyle
18 choices influence the development and course of chronic



1 conditions. Unhealthy behaviors, such as a poor diet, lack of
2 physical activity, and tobacco use are risk factors for many
3 chronic conditions and diseases. A high calorie diet and
4 sedentary lifestyle commonly result in excessive weight gain.
5 Overweight and obesity are risk factors for a large number of
6 chronic diseases, most significantly type two diabetes,
7 congestive heart failure, stroke, and hypertension. Encouraging
8 individuals to adopt healthy habits and practices may reduce the
9 burden of chronic disease in communities throughout the United
10 States.

11 Healthcare costs are an issue of significant concern for
12 our State as well as our country. Nationwide healthcare-related
13 expenditures for state employees were \$24,000,000,000 in 2001,
14 or two and a half per cent of all state spending, and
15 represented the second highest health expenditure next to
16 Medicaid. Our country spends more dollars on healthcare than
17 any other country in the world. The State spent an estimated
18 \$231 per person in 2003 on medical costs related to obesity,
19 which was the thirty-eighth highest amount in the nation. Over
20 the next thirty years, Hawaii's state and county governments
21 will need to come up with as much as \$11,100,000,000 to pay for



1 the retiree healthcare benefits they have promised public
2 employees.

3 As the majority of Americans spend most of their waking
4 hours at work, the worksite is an ideal setting to address
5 health, well-being, and the prevention of chronic disease.
6 Worksite wellness refers to the policies and practices that
7 support profitability for the organization and employability for
8 the individual. Recent empirical research validates that health
9 promotion programs at the worksite can improve health, save
10 money, and produce a return on investment. A United States
11 Department of Health and Human Services report in 2002 revealed
12 that at worksites with physical activity programs, employers
13 have:

- 14 (1) Reduced healthcare costs by twenty to fifty-five per
15 cent;
- 16 (2) Reduced short-term sick leave by six to thirty-two per
17 cent;
- 18 (3) Increased productivity by two to fifty-two per cent.

19 An extensive review of published studies looking at the indirect
20 savings from worksite health promotion programs found that for
21 every dollar invested, an organization may save from \$1.50 to
22 \$13.50 through reduced absenteeism and healthcare costs.



1 More and more states and companies are building world-class
2 wellness programs. As the costs of health benefits continue to
3 rise, employers have an opportunity to impact the health of
4 employees through changes to the workplace environment and the
5 culture of the worksite.

6 The department of health has implemented a demonstration
7 pilot program with employees to encourage increasing physical
8 activity and healthy eating. Thirty minutes of moderate
9 physical activity a day for adults can be achieved when people
10 break the thirty minutes into ten minute sessions and will more
11 likely be sustained when done in a supportive team environment.
12 Concerns over liability for injury or damage that may occur
13 during voluntary participation in the worksite physical activity
14 promotions were deterrents to employees and their supervisors.
15 The issues had a dampening effect on organizing employee team
16 physical activity opportunities. Granting immunity from
17 liability to state and county agencies and authorizing workers
18 compensation benefits for injured employees will encourage
19 formation of and participation in government worksite wellness
20 programs.



1 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . WORKSITE WELLNESS**

5 **§321- Definitions.** As used in this part, unless the
6 context otherwise requires:

7 "Gross negligence" means voluntary and conscious conduct
8 that is an aggravated or magnified failure to use that care
9 which a reasonable person would use to avoid injury to the
10 reasonable person's self, or other people, or damage to
11 property.

12 "Intentional misconduct" means conduct by a person when it
13 is the person's conscious objective to cause harm to the health
14 or well-being of another person or when the person is aware that
15 it is practically certain that the person's conduct will be
16 harmful to the health or well-being of another person.

17 "Wilful and wanton conduct" means "wilful" when the conduct
18 is premeditated, unlawful, without legal justification, or done
19 with an evil intent, with a bad motive or purpose, or with
20 indifference to its natural consequences; and "wanton" when the
21 conduct is reckless, heedless, or characterized by extreme



1 foolhardiness, or callous disregard of, or callous indifference
2 to, the rights or safety of others.

3 "Worksite wellness program" means an organized program in a
4 state or county worksite that is intended to assist employees in
5 making voluntary behavioral changes that reduce the employee's
6 health and injury risks, improve their health consumer skills,
7 and enhance their individual productivity and well-being.

8 **§321- Participant benefits; immunity.** (a) An employee
9 injured during voluntary participation in a state or county
10 worksite wellness program is eligible to file for workers'
11 compensation benefits as described in section 386-3.

12 (b) Absent gross negligence, intentional misconduct, or
13 wilful and wanton misconduct by the State or a county, the State
14 and the counties shall be immune from liability for injury and
15 damage to an employee that result from voluntary participation
16 in a state or county worksite wellness program."

17 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Worksite Wellness Programs

Description:

Gives State and counties immunity from liability for injury and damage that occur as a result of voluntary participation in state and county worksite wellness programs. (SD1)

