
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. In the United States, over
4 \$2,000,000,000,000 was spent on healthcare in 2005 or \$6,683 for
5 every man, woman, and child. Employers pay over one-third of
6 these costs. Much of these costs come from the diagnosis and
7 treatment of chronic diseases and conditions such as diabetes,
8 obesity, cardiovascular disease, and asthma. Researchers have
9 estimated that preventable illness makes up approximately
10 seventy per cent of the burden of illness and the associated
11 costs. According to the Centers for Disease Control and
12 Prevention, approximately one hundred twenty-nine million United
13 States adults are overweight or obese, which results in
14 healthcare expenditures nationwide of anywhere from
15 \$69,000,000,000 to \$117,000,000,000 per year. In Hawaii,
16 approximately thirty-three per cent of the population is
17 overweight and another twenty per cent is obese.



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

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



1 governments will need to come up with as much as \$11,100,000,000
2 to pay for the retiree healthcare benefits they have promised
3 public employees.

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

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

20 An extensive review of published studies looking at the indirect
21 savings from worksite health promotion programs found that for



1 every dollar invested, an organization may save from \$1.50 to
2 \$13.50 through reduced absenteeism and healthcare costs.

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

8 The department of health has implemented a demonstration
9 pilot program with employees to encourage increased physical
10 activity and healthy eating. Thirty minutes of moderate
11 physical activity a day for adults can be achieved when people
12 break the thirty minutes into ten minute sessions and will more
13 likely be sustained when done in a supportive team environment.
14 Concerns over liability for injury or damage that may occur
15 during voluntary participation in worksite physical activity
16 promotions were deterrents to employees and their supervisors.
17 These issues had a dampening effect on organizing employee team
18 physical activity opportunities. Granting immunity from
19 liability to state and county agencies and authorizing workers'
20 compensation benefits for injured employees will encourage the
21 formation of and participation in government worksite wellness
22 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 with respect to "wilful",
18 when the conduct is premeditated, unlawful, without legal
19 justification, or done with an evil intent, with a bad motive or
20 purpose, or with indifference to its natural consequences; and
21 with respect to "wanton", when the conduct is reckless,
22 heedless, or characterized by extreme foolhardiness, or callous



1 disregard of, or callous indifference to, the rights or safety
2 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. (SD2)

