

JAN 19 2007

---

---

## A BILL FOR AN ACT

RELATING TO ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY.

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

1           SECTION 1. In 1998, Congress amended the federal  
2 Rehabilitation Act to require federal agencies to make their  
3 electronic and information technology accessible to persons with  
4 disabilities. Commonly referred to as Section 508 (29 U.S.C.  
5 794d), the law required federal agencies that develop, procure,  
6 maintain, or use electronic and information technology to  
7 provide disabled employees and members of the public access to  
8 information that is comparable to the access available to  
9 others.

10           The legislature finds that inaccessible technology  
11 interferes with an individual's ability to obtain and use  
12 information easily and quickly and that adoption of Section 508  
13 standards and practices by state agencies will eliminate  
14 barriers in information technology, make new opportunities  
15 available for persons with disabilities to work for and interact  
16 with their government, and will encourage the development of  
17 technologies that will help to achieve these goals.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriated inserted and to read as  
3 follows:

4 "CHAPTER

5 ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY

6 § -1 Definitions. As used in this chapter, the  
7 following terms have the following meanings unless the context  
8 indicates otherwise:

9 "Agency" means any state department, agency, or  
10 instrumentality.

11 "Alternative means of access" means alternative formats or  
12 methods of providing information and may include but are not  
13 limited to voice, fax, relay service, teletype or other text-  
14 based communications through the transmission of coded signals,  
15 captioning, text-to-speech synthesis, and audio description.

16 "Disability and communication access board" means the  
17 disability and communication access board established in chapter  
18 348F.

19 "Undue burden" means significant difficulty or expense as  
20 determined pursuant to section -5.

21 § -2 Development, procurement, maintenance, or use of  
22 electronic and information technology. (a) When developing,



1 procuring, maintaining, or using electronic and information  
2 technology, each state agency shall ensure, unless an undue  
3 burden would be imposed on the agency, that:

4 (1) The electronic and information technology allows  
5 individuals with disabilities who are state employees  
6 to have access to and use of information and data that  
7 is comparable to the access to and use of the  
8 information and data by employees who are not  
9 individuals with disabilities; and

10 (2) Individuals with disabilities who are members of the  
11 public seeking information or services from the state  
12 agency have access to and use of information and data  
13 that is comparable to the access to and use of the  
14 information and data by members of the public who are  
15 not individuals with disabilities.

16 (b) When development, procurement, maintenance, or use of  
17 electronic and information technology that meets the  
18 requirements of subsection (a) and the standards established by  
19 the disability and communication access board pursuant to  
20 section -3, would impose an undue burden, the agency, with the  
21 approval of the disability and communication access board, may  
22 provide individuals with disabilities with the information and



1 data involved by an alternative means of access that allows the  
2 individual to use the information and data.

3 § -3 **Electronic and information technology standards.**

4 (a) Within six months of the effective date of this Act, but no  
5 later than December 31, 2007, the disability and communication  
6 access board shall establish and adopt, pursuant to chapter 91,  
7 standards and requirements for equipment, software, technical  
8 support services, and any other matter the access board shall  
9 deem necessary to effectuate the purposes of this chapter.

10 (b) The standards required and adopted by this section  
11 shall conform, as near as may be possible, to standards set for  
12 federal agencies under Section 508 of the Rehabilitation Act of  
13 1973, as amended (29 U.S.C. 794d).

14 (c) In developing the standards required by this section,  
15 the access board shall consult with state departments and  
16 agencies as may be deemed appropriate, including the department  
17 of accounting and general services and the procurement institute  
18 of the University of Hawaii. The access board shall also  
19 consult with representatives of the electronic and information  
20 technology industry and appropriate public or nonprofit agencies  
21 or organizations, including organizations representing  
22 individuals with disabilities.



1 (d) Rules and standards adopted pursuant to this section  
2 shall include but not be limited to:

3 (1) A definition of electronic and information technology  
4 that is consistent with the definition of information  
5 technology specified in federal law; and

6 (2) The technical and functional performance criteria  
7 necessary to implement the requirements of this  
8 chapter.

9 (e) The access board shall periodically review and, as  
10 appropriate, amend the standards required under this section to  
11 reflect technological advances or changes in electronic and  
12 information technology.

13 § -4 Agency implementation. (a) By July 1, 2008, the  
14 state procurement office and each procurement officer for a  
15 state agency, as specified in sections 103D-203 and 103D-204,  
16 shall revise its procurement policies, directives, forms, and  
17 contracts to incorporate the standards established under section  
18 -3.

19 (b) No later than six months after the access board  
20 revises or amends its standards, pursuant to section -3(e),  
21 the state procurement office and each chief procurement officer



1 shall revise its policies and directives, as necessary, to  
2 incorporate the revisions.

3 (c) When procuring a product, each agency shall procure  
4 products that comply with the requirements of this chapter when  
5 the products are available in the commercial marketplace or when  
6 the products are developed in response to a government  
7 solicitation. Agencies may not claim a product as a whole is  
8 not commercially available because no product in the marketplace  
9 meets all the standards. If products are commercially available  
10 that meet some but not all of the standards, the agency shall  
11 procure the product that best meets the standards.

12 § -5 **Undue burden.** (a) In the event that a state agency  
13 determines that compliance with the standards established by the  
14 access board under section -3 relating to procurement would  
15 impose an undue burden on the agency's policies and procedures,  
16 the agency shall request a waiver of those standards from the  
17 access board and shall provide the access board with  
18 documentation explaining why compliance with the standards would  
19 create an undue burden.

20 (b) In determining whether an action would result in an  
21 undue burden, an agency shall consider all resources available



1 to the agency, program, or component, for which the product is  
2 being developed, procured, maintained, or used.

3       **§ -6 Equipment.** In a case where the state agency  
4 provides access to the public to information or data through  
5 electronic and information technology, nothing in this chapter  
6 shall be construed to require the agency to:

- 7       (1) Make equipment owned by the agency available for  
8           access and use by individuals with disabilities at a  
9           location other than that where the electronic and  
10          information technology is generally provided to the  
11          public; or
- 12       (2) Purchase equipment for access and use by individuals  
13          with disabilities at a location other than that where  
14          the electronic and information technology is generally  
15          provided to the public.

16       **§ -7 Software and peripheral devices.** This chapter shall  
17 not be construed to require the installation of specific  
18 accessibility-related software or the attachment of a specific  
19 accessibility-related peripheral device at a workstation of a  
20 state employee who is not an individual with a disability.

21       **§ -8 Public contracts.** (a) This chapter shall apply to  
22 electronic and information technology developed, procured,



1 maintained, or used by a contractor under a contract with an  
2 agency that requires use of the product, to a significant  
3 extent, in the performance of the public contract or the  
4 furnishing or the contracted service or product. This chapter  
5 shall not apply to electronic and information technology that is  
6 acquired by a contractor incidental to a contract or products  
7 located in spaces frequented only by service personnel under a  
8 service contract for maintenance, repair, or occasional  
9 monitoring of equipment.

10 (b) The disability and communication access board shall  
11 develop, pursuant to rule adopted under chapter 91, guidelines  
12 and specifications to implement this section. Any agency may  
13 request, and the access board shall provide, a ruling on the  
14 applicability of this section to a particular contract,  
15 contractor, or maintenance and repair service.

16 § -9 **Enforcement.** The disability and communication  
17 access board shall administer and enforce this chapter.

18 § -10 **Reports.** (a) Each agency shall provide an annual  
19 report to the governor and the legislature on the agency's  
20 implementation of this chapter.

21 (b) The disability and communication access board shall  
22 report annually to the governor and the legislature on the





1 compliance by state agencies with the requirements of this  
2 chapter, complaints received from state employees and the  
3 general public alleging noncompliance with the requirements of  
4 this chapter, remedies mandated, and any other provisions the  
5 access board deems necessary and desirable in furthering the  
6 purposes of this chapter."

7 SECTION 3. If any provision of this Act, or the  
8 application thereof to any person or circumstance is held  
9 invalid, the invalidity does not affect other provisions or  
10 applications of the Act, which can be given effect without the  
11 invalid provision or application, and to this end the provisions  
12 of this Act are severable.

13 SECTION 4. This Act shall take effect July 1, 2007.

14

INTRODUCED BY: 



**Report Title:**

Section 508 Compliance; Electronic and Information Technology Accessibility

**Description:**

Requires state agencies to provide electronic and information technology systems accessible to state employees and general public with disabilities.

