

JAN 21 2010

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## A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1 SECTION 1. Section 188-34, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§188-34 Fishing in Honolulu harbor, Hilo harbor, [~~Kahului~~  
4 ~~harbor,~~] restricted. (a) It is unlawful to take or kill fish  
5 by means of any draw, drag, or seine net in the waters of the  
6 harbor of Honolulu; provided that commercial marine licensees as  
7 defined in chapter 187A may take bait fish by means of any draw,  
8 drag, or seine net during periods scheduled by the harbor  
9 master.

10 (b) It is unlawful to take or kill fish by means of any  
11 net in the waters of that portion of the bay of Hilo bounded by  
12 the breakwater, a line from the outer end of the breakwater to  
13 Alealea Point, and the shoreline from Alealea Point to the  
14 inshore end of the breakwater; provided that commercial marine  
15 and pond operators with appropriate licenses issued by the  
16 department of land and natural resources may take bait fish or



1 pua, or persons may use throw net, opae net, crab net, or nehu  
2 net not longer than fifty feet to take nehu for family  
3 consumption or bait purposes.

4 ~~[(c) It is unlawful to take or kill fish by means of any  
5 net in the waters of Kahului harbor; provided that persons may  
6 use throw net, opae net, crab net, or nehu net not longer than  
7 fifty feet to take nehu for family consumption or bait  
8 purposes.]"~~

9 SECTION 2. Chapter 205A, Hawaii Revised Statutes, is  
10 amended as follows:

11 1. By amending subsection (b) of section 205A-30.5, Hawaii  
12 Revised Statutes, to read:

13 "(b) Subsection (a) shall not apply to special management  
14 area use permits for structures with:

15 (1) An outdoor lighting fixture that is located on the  
16 grounds of a ~~[hotel/hotel-condo]~~ hotel, hotel-  
17 condominium or condominium-hotel as defined in section  
18 486K-1; provided that:

19 (A) The outdoor lighting fixture is located  
20 underwater or is directed downward and  
21 illuminates a limited area of no more than thirty  
22 feet into the shoreline and ocean waters; or



1 (B) The outdoor lighting fixture is the only  
2 practicable means of ensuring the safety and  
3 security of guests, visitors, and employees; and  
4 (2) Artificial lighting provided by a government agency or  
5 its authorized users for government operations,  
6 security, public safety, or navigational needs;  
7 provided that a government agency or its authorized  
8 users shall make reasonable efforts to properly  
9 position or shield lights to minimize adverse  
10 impacts."

11 2. By amending subsection (b) of section 205A-71, Hawaii  
12 Revised Statutes, to read:

13 "(b) Subsection (a) shall not apply to:

14 (1) An outdoor lighting fixture that is located on the  
15 grounds of a [~~hotel/hotel-condo~~] hotel, hotel-  
16 condominium or condominium-hotel as defined in section  
17 486K-1; provided that:

18 (A) The outdoor lighting fixture is located  
19 underwater or is directed downward and  
20 illuminates a limited area of no more than thirty  
21 feet into the shoreline and ocean waters; or



1           (B) The outdoor lighting fixture is the only  
2                   practicable means of ensuring the safety and  
3                   security of guests, visitors, and employees; and  
4       (2) Artificial lighting provided by a government agency or  
5       its authorized users for government operations,  
6       security, public safety, or navigational needs;  
7       provided that a government agency or its authorized  
8       users shall make reasonable efforts to properly  
9       position or shield lights to minimize adverse  
10       impacts."

11       SECTION 3. Section 291E-6, Hawaii Revised Statutes, is  
12       amended by amending subsection (c) to read as follows:

13       "(c) The program shall include standards and procedures  
14       for the certification of the vendor selected to install and  
15       maintain ignition interlock devices pursuant to chapter 291E.

16       At a minimum, the standards shall require that the vendor:

- 17       (1) Install only an ignition interlock device that is  
18       certified pursuant to this section;  
19       (2) Offer or contract for ignition interlock device  
20       installation and maintenance statewide;



- 1           (3) Train drivers who are required to install an ignition
- 2           interlock device, pursuant to chapter 291E [~~or 804~~],
- 3           in how to use the device;
- 4           (4) Schedule the driver for all necessary readings and
- 5           maintenance of the device; and
- 6           (5) Provide periodic reports regarding the use of each
- 7           ignition interlock device installed pursuant to
- 8           chapter 291E, including incidents of test failure,
- 9           attempts to circumvent the device, and dates, times,
- 10          and distances the vehicle was driven."

11          SECTION 4. Section 302A-462, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13          "(a) The superintendent of education [~~and the advisory~~  
14 ~~commission on gender equity in sports~~] shall consider:

- 15          (1) Whether the selection of sports and levels of
- 16          competition effectively accommodate the interests and
- 17          abilities of members of both sexes;
- 18          (2) The provision of equipment, uniforms, and supplies;
- 19          (3) Equal access to practice and game times;
- 20          (4) Travel and per diem allowances;
- 21          (5) Opportunities to receive coaching and academic
- 22          tutoring;



- 1 (6) Assignment and compensation of coaches and tutors;
- 2 (7) Access to locker room, weight room, and practice,
- 3 competitive, and training facilities;
- 4 (8) Access to medical services;
- 5 (9) The provision of housing and dining facilities and
- 6 services;
- 7 (10) Publicity; and
- 8 (11) Any other relevant factors."

9 SECTION 5. Section 348-8, Hawaii Revised Statutes, is  
 10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) There is established within the department a state  
 13 rehabilitation council. The council shall consist of twenty-one  
 14 members appointed by the governor as provided in section 26-34  
 15 and without regard to section 78-4. The members shall include:

16 (1) ~~[At least one representative of the statewide council~~  
 17 ~~on independent living;~~

18 ~~-(2)]~~ At least one representative of a parent training and  
 19 information center;

20 ~~[-(3)]~~ (2) At least one representative of the client  
 21 assistance program;



- 1        [~~(4)~~] (3) At least one qualified vocational rehabilitation  
2                    counselor with knowledge of and experience with  
3                    vocational rehabilitation programs, who shall serve as  
4                    an ex officio, nonvoting member if employed by the  
5                    vocational rehabilitation division of the department;
- 6        [~~(5)~~] (4) At least one representative of community  
7                    rehabilitation program service providers;
- 8        [~~(6)~~] (5) Four representatives of business, industry, and  
9                    labor;
- 10       [~~(7)~~] (6) Representatives of disability advocacy groups  
11                   representing a cross section of individuals with  
12                   physical, cognitive, sensory, and mental disabilities,  
13                   and parents, family members, guardians, advocates, or  
14                   authorized representatives of individuals with  
15                   disabilities who have difficulty in representing  
16                   themselves or are unable due to their disabilities to  
17                   represent themselves;
- 18       [~~(8)~~] (7) Current or former applicants for or recipients of  
19                   vocational rehabilitation services;
- 20       [~~(9)~~] (8) At least one representative of the state  
21                   educational agency responsible for the public  
22                   education of students with disabilities;



1       [~~(10)~~] (9) At least one representative of the state  
2                   workforce development council; and  
3       [~~(11)~~] (10) The administrator of the vocational  
4                   rehabilitation division of the department, who shall  
5                   be an ex officio, nonvoting member;  
6 provided that the council shall include at least one member from  
7 each county; and provided further that a majority of the council  
8 members shall be persons who have disabilities and are not  
9 employed by the vocational rehabilitation division of the  
10 department. The council members shall elect a chairperson from  
11 the membership. Each member of the council shall serve a three-  
12 year term but may not serve more than two consecutive full  
13 terms. Any vacancy occurring in the council membership shall be  
14 filled in the same manner as the original appointment, except  
15 that the governor may delegate the authority to fill such a  
16 vacancy to the remaining members of the council after making the  
17 original appointment."

18           2. By amending subsection (d) to read:

19           "(d) The council shall coordinate with other councils  
20 within the State including [~~the statewide independent living~~  
21 ~~council,~~] the state council on developmental disabilities, the  
22 state council on mental health, the advisory panel of





1 individuals with disabilities in education, and the state  
2 workforce development council. The council shall establish  
3 working relationships between the vocational rehabilitation  
4 division of the department and other councils and coordinate  
5 other functions as deemed appropriate under federal law."

6 SECTION 6. Section 386-1, Hawaii Revised Statutes, is  
7 amended by amending the definition of "physician" to read as  
8 follows:

9 "Physician" includes a doctor of medicine, a dentist, a  
10 chiropractor, an osteopath, a [~~naturopath,~~] naturopathic  
11 physician, a psychologist, an optometrist, and a podiatrist."

12 SECTION 7. Section 431:3-401, Hawaii Revised Statutes, is  
13 amended by amending the definition of "negative trend" to read  
14 as follows:

15 "Negative trend" means, with respect to a [~~life or health~~  
16 ~~insurer,~~] life or accident and health or sickness insurer,  
17 [+]a[+] negative trend over a period of time, as determined in  
18 accordance with the "trend test calculation" included in the  
19 risk-based capital instructions."

20 SECTION 8. Section 431:9A-107, Hawaii Revised Statutes, is  
21 amended by amending subsection (f) to read as follows:

22 "(f) A licensee shall:



1 (1) Inform the commissioner by any means acceptable to the  
2 commissioner of any change of status within thirty  
3 days of the change; and

4 (2) Report any change of status to the business  
5 registration division if the licensee is a business  
6 entity registered with the department of commerce and  
7 consumer affairs pursuant to title 23 or title 23A, or  
8 if the licensee has registered a trade name pursuant  
9 to ~~[part I]~~ part II of chapter 482.

10 Failure to timely inform the commissioner or the business  
11 registration division of a change of status may result in a  
12 penalty pursuant to section 431:2-203.

13 As used in this subsection, "change of status" includes but  
14 shall not be limited to change of legal name, assumed name,  
15 trade name, business address, home address, business phone  
16 number, business fax number, business electronic mail address,  
17 or business website address."

18 SECTION 9. Section 657-7.3, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§657-7.3 Medical torts; limitation of actions; time.** No  
21 action for injury or death against a chiropractor, clinical  
22 laboratory technologist or technician, dentist, [~~naturopath,~~]



1 naturopathic physician, nurse, nursing home administrator,  
2 dispensing optician, optometrist, osteopath, physician or  
3 surgeon, physical therapist, podiatrist, psychologist, or  
4 veterinarian duly licensed or registered under the laws of the  
5 State, or a licensed hospital as the employer of any such  
6 person, based upon such person's alleged professional  
7 negligence, or for rendering professional services without  
8 consent, or for error or omission in such person's practice,  
9 shall be brought more than two years after the plaintiff  
10 discovers, or through the use of reasonable diligence should  
11 have discovered, the injury, but in any event not more than six  
12 years after the date of the alleged act or omission causing the  
13 injury or death. This six-year time limitation shall be tolled  
14 for any period during which the person has failed to disclose  
15 any act, error, or omission upon which the action is based and  
16 which is known to the person.

17       Actions by a minor shall be commenced within six years from  
18 the date of the alleged wrongful act except the actions by a  
19 minor under the age of ten years shall be commenced within six  
20 years or by the minor's tenth birthday, whichever provides a  
21 longer period. Such time limitation shall be tolled for any  
22 minor for any period during which the parent, guardian, insurer,



1 or health care provider has committed fraud or gross negligence,  
2 or has been a party to a collusion in the failure to bring  
3 action on behalf of the injured minor for a medical tort. The  
4 time limitation shall also be tolled for any period during which  
5 the minor's injury or illness alleged to have arisen, in whole  
6 or in part, from the alleged wrongful act or omission could not  
7 have been discovered through the use of reasonable diligence."

8 SECTION 10. Section 302A-463, Hawaii Revised Statutes, is  
9 repealed.

10 ~~["**§302A-463** Advisory commission on gender equity in~~  
11 ~~sports.~~ (a) ~~There shall be established within the department~~  
12 ~~of education for administrative purposes only, an advisory~~  
13 ~~commission on gender equity in sports. The advisory commission~~  
14 ~~may consist of seven members appointed by the superintendent of~~  
15 ~~education who shall ensure that the advisory commission~~  
16 ~~represents, to the maximum extent possible, the gender, racial,~~  
17 ~~and ethnic diversity of the State.~~

18 (b) ~~The advisory commission shall determine if any school~~  
19 ~~does not exhibit substantial progress toward compliance with~~  
20 ~~Public Law 92-318, Title IX, of the federal Education Amendments~~  
21 ~~of 1972 and section 302A-1001. Based upon its findings and~~  
22 ~~determinations, the advisory commission may make recommendations~~



1 ~~to the board of education, the superintendent of education, and~~  
2 ~~the legislature.~~

3 ~~(c) The advisory commission shall expire three years after~~  
4 ~~July 1, 2000."]~~

5 SECTION 11. Chapter 353H, Part II, Hawaii Revised  
6 Statutes, is repealed.

7 SECTION 12. Act 169, Session Laws of Hawaii 2009, is  
8 amended by amending the prefatory language in section 8 to read  
9 as follows:

10 "SECTION 8. Section [~~423D-23,~~] 432D-23, Hawaii Revised  
11 Statutes, is amended to read as follows:"

12 SECTION 13. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

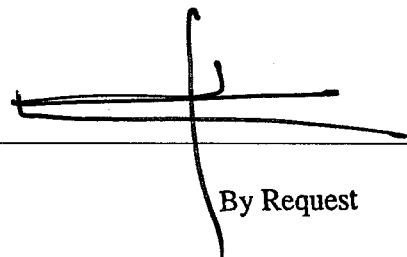
14 SECTION 14. This Act shall take effect upon its approval;  
15 provided that:

16 (1) Section 3 shall take effect on January 1, 2011; and

17 (2) Sections 6 and 9 shall take effect on January 1, 2010.

18

INTRODUCED BY:

  
By Request



**Report Title:**

Revision Bill

**Description:**

Amends or repeals various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the purpose of correcting errors and references, clarifying language, and deleting obsolete or unnecessary provisions.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

