
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, barring, discharge,**
4 **withholding pay, demoting, or discrimination.** (a) It shall be
5 unlawful for any employer to suspend, discharge, or discriminate
6 against any of the employer's employees:

- 7 (1) Solely because the employer was summoned as a
8 garnishee in a cause where the employee is the debtor
9 or because the employee has filed a petition in
10 proceedings for a wage earner plan under Chapter XIII
11 of the Bankruptcy Act; [~~or~~]
- 12 (2) Solely because the employee has suffered a work injury
13 which arose out of and in the course of the employee's
14 employment with the employer and which is compensable
15 under chapter 386 unless the employee is no longer
16 capable of performing the employee's work as a result
17 of the work injury and the employer has no other
18 available work which the employee is capable of



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

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

15 (4) Because an employee tested positive for the presence
16 of drugs, alcohol, or the metabolites of drugs in a
17 substance abuse on-site screening test conducted in
18 accordance with section 329B-5.5; provided that this
19 provision shall not apply to an employee who fails or
20 refuses to report to a laboratory for a substance
21 abuse test pursuant to section 329B-5.5.



1 (b) It shall be unlawful for an employer or a labor
2 organization to bar or discharge from employment, withhold pay
3 from, or demote an employee because the employee uses accrued
4 and available sick leave; provided that:

5 (1) After an employee uses three or more consecutive days
6 of sick leave, an employer or labor organization may
7 require the employee to provide written verification
8 from a physician indicating that the employee was ill
9 when the sick leave was used;

10 (2) This subsection shall apply only to employers who:

11 (A) Have a collective bargaining agreement with their
12 employees; and

13 (B) Employ one hundred or more employees;
14 and

15 (3) Nothing in this subsection shall be construed to
16 supersede any provision of any collective bargaining
17 agreement or employment benefits program or plan that
18 provides greater employee benefits or rights."

19 SECTION 2. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2011.



Report Title:

Employee Benefits; Employment Practices; Sick Leave

Description:

Makes it unlawful for any employer or labor organization with more than one hundred employees and a collective bargaining agreement to bar or discharge from employment, withhold pay from, or demote an employee solely because the employee uses accrued and available sick leave. Effective July 1, 2011.
(SB1076 HD3)

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