

# LATE TESTIMONY

DEPARTMENT OF HUMAN RESOURCES

## CITY AND COUNTY OF HONOLULU

850 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 766-5583 • INTERNET: www.honolulu.gov/hr

PETER B. CARLISLE  
MAYOR



NOEL T. ONO  
DIRECTOR

March 22, 2011

The Honorable Ryan I. Yamane, Chair  
and Members of the Committee on Health  
The House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Yamane and Members:

Subject: SB 892, SD 2, Relating to Service Animals

The Equal Opportunity Office of the City & County of Honolulu, which is housed within the Department of Human Resources, respectfully requests that proposed changes to sections of the Bill addressing H.R.S. 347-13 (c) be incorporated as follows:

- 1) In all references relating to persons with disabilities, consideration should be given to including all persons with disabilities and not just those with "physical" disabilities. This can be accomplished by simply removing the words "physical" and "physically" before the words disabled and disability.
- 2) Delete the text found in H.R.S. 347 (c) (1) that refers to a person who "suffers from" a disability to indicate that the person "has" a disability.
- 3) Remove completely H.R.S. 347 (c) (2) which requires a person with a disability to obtain a statement from their physician or physician assistant attesting to the person with a disability's need to use a life jacket or other flotation device while in a public swimming pool.

The ADA prohibits discrimination against individuals with disabilities to include exclusion from participation in or denial of or benefits, services, programs, etc. due to disability. A requirement that an individual prove their disability or need to use a life jacket or other flotation device in a public swimming pool is inconsistent with the ADA and imposes a requirement on the disabled individual attempting to enjoy a public swimming pool that is not similarly imposed on other pool users.

Existing rules found at 28 Code of Federal Regulations Part 35 at 35.130 (b) (7) state that "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the

The Honorable Ryan I. Yamane, Chair  
and Members of the Committee on Health  
The House of Representatives  
Page 2  
March 22, 2011

*basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." This provision allows a public entity to prohibit the use of life jackets or flotation devices in a swimming pool provided that such a rule or policy is reasonably modified when a person with a disability requires the use of such items while using the swimming pool.*

Suggested below is a revision applicable to proposed H.R.S. 347-13 (c). Thank you for the opportunity to testify.

**Suggested revision of H.R.S. 347-13 (c):**

(c) Every person with a disability shall have the right to use a life jacket or other flotation device in a public swimming pool; provided that the person has a disability or condition that requires the use of a life jacket or other flotation device.

(1) Removed

(2) Removed

Yours truly,

  
Moel T. Ono  
Director