
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. The legislature finds that the citizens of
2 Hawaii have a basic right to enjoy legal activities during non-
3 work hours without facing intimidating or coercive acts by their
4 employer.

5 The legislature further finds that since 1987, twenty-nine
6 states and the District of Columbia have passed labor laws
7 protecting persons who use tobacco products from being denied
8 employment or from being terminated simply because they were
9 unable to quit smoking. The legislature further finds that
10 intolerance toward employees who use tobacco not only
11 economically harms the dependent loved-ones of the individuals
12 who are denied employment, but such discrimination also violates
13 their right to privacy outside of working hours.

14 The purpose of this Act is to prohibit employment
15 discrimination against persons who use tobacco products.

16 SECTION 2. Section 378-2, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:



- 1 "(a) It shall be an unlawful discriminatory practice:
- 2 (1) Because of race, sex including gender identity or
- 3 expression, sexual orientation, age, religion, color,
- 4 ancestry, disability, marital status, arrest and court
- 5 record, or domestic or sexual violence victim status
- 6 if the domestic or sexual violence victim provides
- 7 notice to the victim's employer of [~~such~~] that status
- 8 or the employer has actual knowledge of [~~such~~] that
- 9 status:
- 10 (A) For any employer to refuse to hire or employ or
- 11 to bar or discharge from employment, or otherwise
- 12 to discriminate against any individual in
- 13 compensation or in the terms, conditions, or
- 14 privileges of employment;
- 15 (B) For any employment agency to fail or refuse to
- 16 refer for employment, or to classify or otherwise
- 17 to discriminate against, any individual;
- 18 (C) For any employer or employment agency to print,
- 19 circulate, or cause to be printed or circulated
- 20 any statement, advertisement, or publication or
- 21 to use any form of application for employment or



1 to make any inquiry in connection with
2 prospective employment, that expresses, directly
3 or indirectly, any limitation, specification, or
4 discrimination;

5 (D) For any labor organization to exclude or expel
6 from its membership any individual or to
7 discriminate in any way against any of its
8 members, employer, or employees; or

9 (E) For any employer or labor organization to refuse
10 to enter into an apprenticeship agreement as
11 defined in section 372-2; provided that no
12 apprentice shall be younger than sixteen years of
13 age;

14 (2) For any employer, labor organization, or employment
15 agency to discharge, expel, or otherwise discriminate
16 against any individual because the individual has
17 opposed any practice forbidden by this part or has
18 filed a complaint, testified, or assisted in any
19 proceeding respecting the discriminatory practices
20 prohibited under this part;



- 1 (3) For any person, whether an employer, employee, or not,
2 to aid, abet, incite, compel, or coerce the doing of
3 any of the discriminatory practices forbidden by this
4 part, or to attempt to do so;
- 5 (4) For any employer to violate the provisions of section
6 121-43 relating to nonforfeiture for absence by
7 members of the national guard;
- 8 (5) For any employer to refuse to hire or employ or to bar
9 or discharge from employment any individual because of
10 assignment of income for the purpose of satisfying the
11 individual's child support obligations as provided for
12 under section 571-52;
- 13 (6) For any employer, labor organization, or employment
14 agency to exclude or otherwise deny equal jobs or
15 benefits to a qualified individual because of the
16 known disability of an individual with whom the
17 qualified individual is known to have a relationship
18 or association;
- 19 (7) For any employer or labor organization to refuse to
20 hire or employ, bar or discharge from employment,
21 withhold pay from, demote, or penalize a lactating



1 employee because the employee breastfeeds or expresses
2 milk at the workplace. For purposes of this
3 paragraph, the term "breastfeeds" means the feeding of
4 a child directly from the breast;

5 (8) For any employer to refuse to hire or employ, bar or
6 discharge from employment, or otherwise to
7 discriminate against any individual in compensation or
8 in the terms, conditions, or privileges of employment
9 of any individual because of the individual's credit
10 history or credit report, unless the information in
11 the individual's credit history or credit report
12 directly relates to a bona fide occupational
13 qualification under section 378-3(2); [~~or~~]

14 (9) For any employer to discriminate against any
15 individual employed as a domestic, in compensation or
16 in terms, conditions, or privileges of employment
17 because of the individual's race, sex including gender
18 identity or expression, sexual orientation, age,
19 religion, color, ancestry, disability, or marital
20 status [~~-~~]; or



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1 (10) For any employer or labor organization to refuse to
2 hire or employ, bar or discharge from employment,
3 withhold pay from, demote, penalize, or otherwise
4 discriminate against an employee because the employee
5 smokes, uses an electronic smoking device, or uses any
6 tobacco product outside the course of employment;
7 provided that any organization, whose primary purpose
8 is to discourage the use of tobacco products by the
9 general public, shall be exempt from the provisions of
10 this paragraph. For purposes of this paragraph,
11 electronic smoking device shall have the same meaning
12 as the term defined in section 709-908."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 2015.

16

INTRODUCED BY: *Scott. Ann B/R*

JAN 22 2015



H.B. NO. 244

Report Title:

Employment Discrimination; Labor; Smoking

Description:

Prohibits discrimination against, or terminating, an employee solely for the employee's use of tobacco products outside of compensated working hours. Exempts any organization whose primary purpose is to discourage the use of tobacco products by the general public.

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

