
A BILL FOR AN ACT

RELATING TO RETAIL EMPLOYMENT.

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

1 SECTION 1. The legislature finds that holidays
2 traditionally reserved for family gatherings, such as
3 Thanksgiving and Christmas, provide a wonderful opportunity to
4 spend time with family and friends. However, there has been a
5 recent pattern of retailers encroaching on family holidays in
6 their quest for a profit. This pattern is particularly
7 noticeable during the Thanksgiving holiday. As the start of the
8 holiday shopping season arrives earlier each year, retailers are
9 extending their shopping hours. While these extended retail
10 hours may appeal to retailers and shoppers, the employees who
11 are asked and expected to work these hours are sacrificing
12 cherished time away from their families and friends. The
13 legislature concludes that employees who elect not to work on
14 certain holidays should not be subject to retaliatory personnel
15 action by their employer.

16 Accordingly, the purpose of this Act is to ensure that an
17 employee who is scheduled to work on a holiday traditionally
18 reserved for family gatherings, such as Thanksgiving or



1 Christmas, is not subject to retaliatory action by an employer
2 for refusing to work on such a holiday.

3 SECTION 2. Section 378-32, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) It shall be unlawful for any employer to suspend,
6 discharge, or discriminate against any of the employer's
7 employees:

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



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

11 (3) Because the employee testified or was subpoenaed to
 12 testify in a proceeding under this part; [~~or~~]

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

20 (5) Because the employee refused to work on a holiday that
 21 is traditionally reserved for family gatherings, such



1 as Thanksgiving or Christmas, if scheduled to do so by
2 the employer."

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

5 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Retail Employer; Retail Employee; Family Holidays; Employment Practices; Unlawful Suspension, Discharge, or Discrimination

Description:

Makes it unlawful for any employer to suspend, discharge, or discriminate against any of the employer's employees because an employee refused to work on a holiday that is traditionally reserved for family gatherings, such as Thanksgiving or Christmas, if scheduled to do so by the employer. Effective 07/01/2050. (SD1)

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