

JAN 19 2018

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# 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 by amending subsection (a) to read as follows:

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

6       (1) Solely because the employer was summoned as a  
7 garnishee in a cause where the employee is the debtor  
8 or because the employee has filed a petition in  
9 proceedings for a wage earner plan under chapter XIII  
10 of the Bankruptcy Act;

11       (2) Solely because the employee has suffered a work injury  
12 which arose out of and in the course of the employee's  
13 employment with the employer and which is compensable  
14 under chapter 386 unless the employee is no longer  
15 capable of performing the employee's work as a result  
16 of the work injury and the employer has no other  
17 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]~~ paragraph shall not apply to an employee  
20 who fails or refuses to report to a laboratory for a



1 substance abuse test pursuant to section 329B-5.5[-];

2 or

3 (5) Because an employee, who is a registered qualifying  
4 patient authorized for the medical use of cannabis  
5 pursuant to sections 329-122 and 329-123, tested  
6 positive for the presence of cannabis in a substance  
7 abuse on-site screening test conducted in accordance  
8 with section 329B-5.5; provided that this paragraph  
9 shall not apply to:

10 (A) An employee who fails or refused to report to a  
11 laboratory for a substance abuse test pursuant to  
12 section 329B-5.5; or

13 (B) An employee who is in violation of section  
14 329-122(c) (2) (B) ."

15 SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

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# S.B. NO. 2220

**Report Title:**

Employment Practices; Unlawful Suspension, Discharge, or  
Discrimination; Employers; Employees; Substance Abuse Testing;  
Medical Use of Cannabis; Registered Qualifying Patient

**Description:**

Prohibits an employer from suspending, discharging, or  
discriminating against an employee for testing positive for  
cannabis if the employee is a registered qualifying patient who  
is authorized for the medical use of cannabis. Provides certain  
exceptions.

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