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# A BILL FOR AN ACT

RELATING TO THE MINIMUM WAGE.

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

1           SECTION 1. The legislature finds that the real problems of  
2 disability come not from a medical condition itself but rather  
3 from the associated low expectations, misinformation, and  
4 socially-constructed systemic barriers. Individuals with  
5 disabilities are subject to low expectations in particular in  
6 the employment arena and in systems preparing them for  
7 employment, such as education and rehabilitation.

8           As reported by the National Council on Disability in its  
9 2018 report "National Disability Employment Policy, From the New  
10 Deal to the Real Deal: Joining the Industries of the Future",  
11 for-profit entities use subminimum wage work at federally- and  
12 state-funded employment service providers across the country in  
13 their supply chains. This outdated system struggles in a  
14 dynamically changing legal and policy environment. As employers  
15 straddle the requirements of new and old laws, they confront  
16 significant barriers, as the intended outcomes of many  
17 employment funding sources, programs, and services, still



1 conform to models that were conceived of more than fifty years  
2 before the Americans with Disabilities Act, when legal  
3 protections were based in a manufacturing-based economy, and at  
4 a time when people with disabilities were largely absent from  
5 the labor market altogether and employment was conflated with  
6 charity. As a result, workers depend on welfare programs to  
7 replace the wages not paid by their employers. The legislature  
8 further finds that a number of other states have already amended  
9 their minimum wage laws to strike the language excluding workers  
10 with disabilities.

11 The purpose of this Act is to include people with  
12 disabilities in the minimum wage requirements applicable to all  
13 workers.

14 SECTION 2. Section 103D-1001, Hawaii Revised Statutes, is  
15 amended by amending the definition of "qualified community  
16 rehabilitation program" to read as follows:

17 "Qualified community rehabilitation program" means a  
18 nonprofit community rehabilitation program for persons with  
19 disabilities that:



- 1           (1) Is organized and incorporated under the laws of the  
2                   United States or this State, and located in this  
3                   State;
- 4           (2) Is operated in the interest of and [+]employs[+]   
5                   persons with disabilities;
- 6           (3) Does not inure any part of its net income to any  
7                   shareholder or other individual;
- 8           (4) Complies with all applicable occupational health and  
9                   safety standards required by the federal, state, and  
10                  county governments; and
- 11          (5) Holds a current certificate from the United States  
12                  Department of Labor pursuant to the Fair Labor  
13                  Standards Act, Title 29 United States Code section  
14                  214(c), and is certified by the state department of  
15                  labor and industrial relations under [~~section 387-9~~  
16                  and] applicable administrative rules relating to the  
17                  employment of persons with disabilities."

18           SECTION 3. Section 387-9, Hawaii Revised Statutes, is  
19           amended by amending its title and subsection (a) to read as  
20           follows:

1           "§387-9 Special minimum wages for learners; apprentices;  
 2 full-time students; paroled wards of Hawaii youth correctional  
 3 facility[~~;~~ ~~handicapped workers~~]. (a) Notwithstanding the  
 4 provisions of section 387-2, the director [~~may~~], by rule, may  
 5 provide for the employment[~~;~~

6           ~~(1)~~ ~~Of~~ of learners, of apprentices, of part-time  
 7 employees who are full-time students attending public  
 8 or private schools other than colleges, universities,  
 9 business schools, or technical schools, and of wards  
 10 paroled from the Hawaii youth correctional facility,  
 11 under special certificates issued by the director, at  
 12 [~~such~~] wages lower than the applicable minimum wage  
 13 and subject to [~~such~~] limitations as to time, number,  
 14 proportion, and length of service as the director  
 15 shall prescribe[~~;~~ and

16           ~~(2)~~ ~~Of individuals whose earning capacity is impaired by~~  
 17 ~~old age or physical or mental deficiency or injury,~~  
 18 ~~under special certificates issued by the director, at~~  
 19 ~~such wages lower than the applicable minimum wage and~~  
 20 ~~for such period as shall be fixed in the~~  
 21 ~~certificates]."~~



1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on January 1, 2020.

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INTRODUCED BY:

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JAN 24 2019



# H.B. NO. 1341

**Report Title:**

Employment; Individuals with Disabilities; Minimum Wage; Deaf and Blind Task Force

**Description:**

Repeals the exemption of persons with disabilities from minimum wage requirements. Takes effect on 1/1/2020.

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