

STAND. COM. REP. NO.

153

Honolulu, Hawaii

, 2021

FEB 11

RE: H.B. No. 1253  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Labor & Tourism, to which was referred H.B. No. 1253 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES,"

begs leave to report as follows:

The purpose of this measure is to prohibit an employer from:

- (1) Requiring an employee to download a mobile application to the employee's personal communication device that enables the employee's location to be tracked or their personal information revealed;
- (2) Terminating or otherwise discriminating against an employee for refusing to download a mobile application to the employee's personal communication device; or
- (3) Discharging or otherwise discriminating against an employee for filing a complaint, testifying, or assisting in any proceeding concerning these unlawful practices.

Your Committee received comments on this measure from the Department of Labor and Industrial Relations and Maui Chamber of Commerce.

2021-1429 HB1253 HD1 HSCR HMSO



Your Committee finds that, in response to the COVID-19 pandemic, applications for mobile phones have been promoted as a means to track the whereabouts of individuals who may have been exposed to someone testing positive for the virus, prompting privacy concerns and anxiety over potential misuse of the location information. While mobile phone users may voluntarily agree to be tracked, your Committee finds that privacy concerns dictate against making this requirement a condition of employment.

Your Committee further finds that the Department of Labor and Industrial Relations indicated it may not have the resources to enforce this measure and suggested a private right of action be made available.

Accordingly, your Committee has amended this measure by:

- (1) Removing language requiring the Department of Labor and Industrial Relations to enforce this measure;
- (2) Creating a civil action for injunctive relief or damages for a violation of this measure; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1253, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Tourism,

  
RICHARD H.K. ONISHI, Chair



