



February 16, 2021

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Lisa Kitagawa, Vice Chair, and
Members of the House Committee on Consumer Protection & Commerce

Date: Tuesday, February 16, 2021
Time: 2:00 p.m.
Place: Conference Room 329, State Capitol

From: Anne Perreira-Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1253 H.D.1 RELATING TO THE EMPLOYMENT PRACTICES

I. OVERVIEW OF PROPOSED LEGISLATION

This measure adds a new part to Chapter 378, Hawaii Revised Statutes (HRS), Employment Practices, 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 on their personal device; or 3) discharging or discriminating against an employee for filing a complaint, testifying or assisting in any proceeding concerning these unlawful practices.

The DLIR supports this proposal.

II. CURRENT LAW

There is no provision in Hawaii's Labor Laws that prohibits an employer from 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.

III. COMMENTS ON THE HOUSE BILL

The DLIR is supportive of legislation that protects employees' privacy and the private right of action this bill makes available for violation of this measure.



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII**

February 16, 2021

Re: HB 1253 HD1 Relating to Employment Practices

Good afternoon Chairperson Johanson and members of the House Committee on Consumer Protection & Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership represents small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

While we understand the concerns for employees' rights to privacy, RMH is Oppose to HB 1253 HD1 Relating to Employment Practices. This measure prohibits 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 on their personal device; or (3) discharging or discriminating against an employee for filing a complaint concerning these unlawful practices; and is effective 12/25/204.

Hawaii like the rest of the world is trying to navigate and survive through this pandemic. Retailers like many other businesses want to ensure that they can provide a safe environment to work and shop in. Many companies have smart phone apps that employees use to do wellness checks prior to coming to work. This information can also be used in contract tracing to ensure minimal exposure to others or to create an outbreak cluster.

We are also supportive regarding the apps like the Hawaii Safe Travel. This is one of the comprehensive measures being used to ensure that as Hawaii opens to travel and tourism, we provide a safe environment for our employees to work in.

We are currently in unprecedented times. We need to ensure that our workers and community are safe.

Mahalo again for this opportunity to testify.

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