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February 9, 2021

To: The Honorable Richard H.K. Onishi, Chair,
The Honorable Jackson D. Sayama, Vice Chair, and
Members of the House Committee on Labor & Tourism

Date: Tuesday, February 9, 2021
Time: 9:30 a.m.
Place: Conference Room 312, State Capitol

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

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

I. OVERVIEW OF PROPOSED LEGISLATION

This measure adds a new section 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 offers comments on the proposal.

II. CURRENT LAW

There is no provision in labor law 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 SENATE BILL

This measure does not contain any penalties for violation. It is unclear what the remedy would be.

This bill provides for employees alleging violations of the law to file a complaint with the DLIR. DLIR would require investigators and hearings officers to enforce

and conciliate the provisions. Due to the current economic conditions, a 20% budget restriction was imposed on the DLIR's budget. This reduction to generally funded positions included investigator and hearings officer positions.

The DLIR is supportive of legislation that protects employees' privacy and suggests this concept be a new part in Chapter 378 that provides for a private right of action.

LATE

HB-1253

Submitted on: 2/8/2021 6:25:54 PM

Testimony for LAT on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amber Coutsos	Maui Chamber of Commerce	Comments	No

Comments:

Aloha Chair Onishi, Vice-Chair Sayama and Members of the Committee on Labor & Tourism,

At the Maui Chamber of Commerce, we encourage the public, business members and their employees to use the AlohaSafe Alert app as it has broad acceptance and has demonstrated it will help prevent the spread of COVID-19. We certainly do not know of anybody trying to force their employees to put the app on their personal phone and question if that would be legal.

Mahalo for the opportunity to provide comments.