



STATE OF HAWAII  
KA MOKU'ĀINA O HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
KA 'OIHANA PONO LIMAHANA

February 25, 2025

To: The Honorable Karl Rhoads, Chair,  
The Honorable Mike Gabbard, Vice Chair, and  
Members of the Senate Committee on Judiciary

Date: Wednesday, February 26, 2025  
Time: 9:40 a.m.  
Place: Conference Room 016, State Capitol

From: Jade T. Butay, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. 1660 SD1 RELATING TO EMPLOYMENT**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The DLIR **appreciates the intent** of this measure to provide greater safety and health to certain hospitality employees. If enacted, the Hawaii Occupational Safety and Health Division (HIOSH) would be tasked with prosecuting these cases under the General Duty Clause. Prosecuting an employer under this clause requires demonstrating that a recognized hazard exists, that the employer knew or should have known about it, and that the hazard is likely to result in death or serious harm. This is a complex process, and the burden of proof falls on HIOSH.

Moreover, the proposal in part would require the Hawaii Civil Rights Commission (HCRC) to manage a duplicative enforcement process alongside the DLIR for a retaliation protection already provided for in HRS §378-2(a)(2).

**II. CURRENT LAW**

Section 396-4, "Powers and Duties of the Department," requires the DLIR to administer occupational safety and health standards by adopting Federal OSHA standards through rulemaking. HIOSH enforces these standards to prevent work-related injuries and illnesses. HIOSH may also enforce industry consensus standards by adopting them by reference—such as American National Standards Institute (ANSI) standards—or by prosecuting under the General Duty Clause, using industry consensus standards as evidence.

Although no specific OSHA standards address harassment, the DLIR believes that provisions related to this topic exist in collective bargaining agreements.

**III. COMMENTS ON THE SENATE BILL**

The DLIR concurs with the HCRC regarding the problematic provisions of this bill. The department also notes that HCRC jurisdiction could complicate HIOSH enforcement in addition to HCRC managing a duplicative enforcement process. Additionally, since some collective bargaining agreements address harassment, the department believes it may be appropriate to include an exemption for those agreements.



# **HAWAI‘I CIVIL RIGHTS COMMISSION**

## **KOMIKINA PONO KĪWILA O HAWAI‘I**

830 PUNCHBOWL STREET, ROOM 411, HONOLULU, HI 96813 · PHONE: (808) 586-8636 · FAX: (808) 586-8655 · TDD: (808) 586-8692

Wednesday, February 26, 2025

9:40am

Conference Room 016 & Videoconference  
State Capitol, 415 South Beretania Street

To: The Honorable Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
Members of the House Committee on Judiciary

From: Dr. William J. Puette, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

### **Re: S.B. No. 1660, S.D. 1 Relating to Employment**

The Hawai‘i Civil Rights Commission (HCRC) appreciates the intent of S.B. 1660 S.D. 1 to provide enhanced protections for hospitality workers, a segment of the state’s workforce that has been found to be particularly vulnerable to harassment. However, the HCRC has significant reservations regarding portions of the bill that would create causes of action and enforcement mechanisms that may be incompatible with the existing rules and procedures governing the enforcement of the state’s antidiscrimination laws.

The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5. The HCRC enforces laws protecting the people of Hawai‘i from discrimination in the areas of housing, employment, public accommodations, and in some state and state-funded services. With specialized training and expertise, HCRC staff are uniquely qualified to handle complaints of discrimination from the public.

S.B. 1660 S.D. 1 would mandate that hospitality employers adopt written policies regarding harassment, provide annual training, supply panic buttons to certain hospitality workers, provide a list of applicable resources, and display a notice of rights and protections. While these items are not within its authority to enforce, the HCRC certainly supports the bill’s commendable intent to reduce or prevent incidents of harassment toward hospitality workers.

S.B. 1660 S.D. 1 defines “harassment” as unwelcome conduct based on protected characteristics including sex, race, national origin, or sexual orientation, that creates a hostile, intimidating, or offensive working environment. Complaints based on harassment of this type

are already enforced by the HCRC pursuant to Hawai‘i Revised Statutes (HRS) HRS §378-2. Likewise, the HCRC also has jurisdiction over matters relating to retaliation, as discussed below.

Within S.B. 1660 S.D. 1, the section entitled “**Prohibition on retaliation**” (§ -3) begins:

- (a) No hospitality employer shall retaliate against a hospitality worker who:
  - (1) Reports, in good faith, any incident of harassment or retaliation;
  - (2) Uses a panic button or other safety device as provided under this chapter;
  - (3) Participates in an investigation, hearing, or other proceeding related to harassment or retaliation; or
  - (4) Refuses to perform work in an area where the hospitality worker reasonably believes there is a risk to the worker's safety due to harassment or other threats.

§ -4 specifies details about complaints filed under S.B. 1660 S.D. 1, and § -5 defines the penalties that the Department of Labor and Industrial Relations (DLIR) may impose for violations. In addition, Section 3 directs the DLIR to adopt rules to effectuate the purposes of S.B. 1660 S.D. 1, including rules determining penalties and establishing procedures for handling complaints.

HRS §378-2(a)(2), which the HCRC enforces, already prohibits retaliation of the type contemplated within the “**Prohibition on retaliation**” section as it relates to harassment. Hawai‘i Administrative Rules, Title 12, Chapter 26, Subchapter 1 lays out the detailed procedures that the HCRC already uses for the filing, investigation, and enforcement of such retaliation claims. Moreover, HRS §378-5 describes the existing remedies for violations of such retaliation claims, including but not limited to reinstatement, back pay, and compensatory damages.

The HCRC therefore is concerned that S.B. 1660 S.D. 1 as written may create causes of action and enforcement mechanisms that directly conflict with and/or duplicate portions of the state’s existing laws regarding retaliation. The HCRC routinely files, investigates, and adjudicates complaints of retaliation in the workplace and has successfully done so for many years in accordance with established procedures. The establishment of a new competing system would not only be confusing to the public but also potentially impact the ability of the HCRC to most effectively enforce the state’s antidiscrimination laws.

In summary, the HCRC appreciates the intent behind S.B. 1660, S.D. 1 but has reservations with the bill as written.



# HAWAII STATE COMMISSION

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## ON THE STATUS OF WOMEN

February 24, 2025

### Position: Support of SB1660 SD1

**To:** Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
Members of the Senate Committee on Judiciary

**From:** Llasmin Chaîne, LSW, Executive Director, Hawai'i State Commission on the Status of Women

**Re:** Testimony in Support of SB1660 SD1, Relating to Employment

Hearing: Wednesday, February 26, 2025, 9:40 a.m.  
Conference Room 016, State Capitol

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the committee for hearing this important bill. I would like to express my **strong support of SB1660 SD1**, which requires employers in the hospitality industry to implement anti-harassment measures, provide training, and equip certain workers with panic buttons. I defer to the department of labor and industrial relations as to the best strategy for enforcing this bill and holding employers accountable.

Due to the isolated working conditions of hospitality employees, they **are at an increased risk of experiencing sexual harassment, exposure, unwanted touching and/or sexual assault**. Given:

- sexual violence is a highly underreported crime (only about 1 in 10 people who experience sexual harassment or assault in the workplace ever report<sup>1</sup>),
- the detrimental effects of sexual harassment and assault on well-being<sup>2</sup>,
- the high rate of retaliation (75%<sup>1</sup>) that employees that speak up about harassment or assault face from their employers,
- the significant percentage of immigrants working in the hospitality industry, especially housekeeping (immigrants make up over 68% of Hawai'i's housekeepers<sup>3</sup>), and
- the multiple power disparities that exist between employee/guest, employee/supervisor, and employee/employer, which can be leveraged against marginalized hospitality employees,

I respectfully **urge this Committee to pass SB1660 SD1**. Providing annual training, documenting internal and external reporting mechanisms, and identifying local sexual violence survivor services (in accordance with Hawai'i's Language Access Law - HRS 321C), and a means to immediately summon security to the location of these vulnerable employees, **will increase hospitality workers' safety and improve their wellbeing**. Thank you for this opportunity to submit testimony in support of SB1660 SD1.

<sup>1</sup> Gonzales Fitzpatrick, Maya. (2020) Panic Buttons: Tackling Sexual Harassment & Assault in California's Hospitality Industry. Brown University – Watson Institute for International & Public Affairs. <https://watson.brown.edu/public-policy/files/pp/imce/events/2020/GonzalesFitzpatrick%2C%20Capstone.pdf>

<sup>2</sup> About Sexual Violence. CDC – Sexual Violence Prevention. <https://www.cdc.gov/sexual-violence/about/index.html>

<sup>3</sup> Yee, Chelsee. (2022, September 6) Hawaii's biggest groups of immigrants and their jobs. KHON2. <https://www.khon2.com/local-news/immigrants-in-hawaii-ranked-by-size-and-labor-force/>

**SB-1660-SD-1**

Submitted on: 2/24/2025 5:06:24 PM

Testimony for JDC on 2/26/2025 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Olderr	Individual	Support	Written Testimony Only

## Comments:

So many people in the hospitality workforce are at the whims of extreme power imbalances, which can lead to a very abusive and toxic workplace. If we want to prioritize tourism to fund our government, it should not be at the expense of uncles and aunties, the backbone of our economy. I support this bill, and you should too!