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

February 5, 2025

To: The Honorable Henry J.C. Aquino, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Wednesday, February 5, 2025
Time: 3:10 p.m.
Place: Conference Room 224, State Capitol

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

Re: S.B. 1287 RELATING TO TRANSPARENCY

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR offers comments** on this proposal. SB1287 proposes to establish under the State's Unfair and Deceptive Practices Law, Chapter 481B, Hawaii Revised Statutes (HRS), that food, beverage, and service establishments that accept tips and employ tipped employees to post signs that include certain language explaining their tip allocation practices and the contact information for the Wage Standards Division of the DLIR and the Wage and Hour Division of the United States Department of Labor.

II. CURRENT LAW

Under the Wage and Hour Law, Chapter 387, HRS, the definition of "wage" in §387-1, HRS, does not include tips or gratuities of any kind, except for the purposes of the last sentence of §387-2, HRS, which relates to the requirements for using the tip credit.

III. COMMENTS ON THE SENATE BILL

§12-20-11, Hawaii Administrative Rules (HAR), Payment of Wages to Tipped Employees, pertains to tip-splitting, tip-pooling, and additional tip credit requirements. §12-20-12, HAR, covers recordkeeping requirements for employers claiming the tip credit.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
S.B. NO. 1287, RELATING TO TRANSPARENCY.

BEFORE THE:
SENATE COMMITTEE ON LABOR AND TECHNOLOGY

DATE: Wednesday, February 5, 2025 **TIME:** 3:10 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Christopher T. Han, or Christopher J.I. Leong, Deputy Attorneys
General

Chair Aquino and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill requires food, beverage, and service establishments that accept tips and employ tipped employees to post signs that include certain language explaining their tip allocation practices and the contact information for the Wage Standards Division of the Department of Labor and Industrial Relations and the Wage and Hours Division of the United States Department of Labor.

We recommend adding a new section after section 2 to protect the bill against potential retroactive application issues. Because the activity newly prohibited by this bill could result in the assessment of penalties for being an unfair or deceptive act or practice, the bill must not apply retroactively to conduct occurring before its effective date. Therefore, we recommend inserting the following wording after page 4, line 20:

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

The current sections 3 and 4 should be renumbered accordingly.

Thank you for the opportunity to provide comments.