

ACT 30

S.B. NO. 182

A Bill for an Act Relating to Employment Discrimination Against the Handicapped.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 378-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Physical handicap’ means a substantial physical impairment where such handicap is verified by medical findings and appears reasonably certain to continue throughout the lifetime of the individual without substantial improvement.”

SECTION 2. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 378-2 Discriminatory practices made unlawful; offenses defined. It shall be unlawful employment practice or unlawful discrimination:

- (1) For an employer to refuse to hire or employ or to bar or discharge from employment, any individual because of his race, sex, age, religion, color, ancestry, physical handicap, or arrest and court record which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment, provided that an employer may refuse to hire an individual for good cause relating to the ability of the individual to perform the work in question;
- (2) For an employer to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment because of race, sex, age, religion, color, ancestry, physical handicap, or arrest and court record;
- (3) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, sex, age, religion, color, ancestry, physical handicap, or arrest and court record unless based on a bona fide occupational qualification;
- (4) For any labor organization to exclude or expel from its membership any person or to discriminate in any way against any of its members, employer, or employees because of race, sex, age, religion, color, ancestry, physical handicap, or arrest and court record;
- (5) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any person because he has opposed any practice forbidden by this part or because he has filed a complaint, testified, or assisted in any proceeding respecting the employment practices and discrimination prohibited under this part;
- (6) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the practices forbidden by this part, or to attempt to do so;
- (7) For any employer or labor organization to refuse to enter into an apprenticeship agreement, as defined in section 372-2, because of the race, sex, age, religion, color, ancestry, or physical handicap of an apprentice; provided that no apprentice shall be less than sixteen years of age.”

SECTION 3. Section 378-9, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 378-9 Exceptions. Nothing in this part shall be deemed to:

- (1) Repeal or affect any law or ordinance or government rule or regulation having the force and effect of law which prohibits, restricts, or controls the employment of minors;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications;
- (3) Prohibit or prevent the termination of or change the employment of any person who is unable to perform his duties;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan;
- (5) Prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination or from making such selection as is calculated by the organization to promote the religious principles for which it is established or maintained;
- (6) Conflict with or affect the application of security regulations in employment established by the United States or the State of Hawaii;
- (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a handicapped person.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 3, 1975.)

*Edited accordingly.