

ACT 162

H.B. NO. 522

A Bill for an Act Relating to Mandatory Retirement.

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

SECTION 1. Section 378-3, Hawaii Revised Statutes, is amended to read as follows:

**“§378-3 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;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise, and which have a substantial relationship to the functions and responsibilities of the prospective or continued employment;

- (3) Prohibit or prevent an employer, employment agency, or a labor organization from refusing to hire or refer or from discharging any individual for reasons relating to the ability of the individual to perform the work in question;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan [based on age], which is not intended to evade the purpose of this chapter; provided that this exception shall not be construed to permit any employee plan to set a maximum age requirement for hiring or a mandatory retirement age; provided further that any existing bona fide retirement, pension, employee benefit, or insurance plan or existing bargaining agreement shall be exempt from the provisions of this paragraph for two years after April 30, 1984, or until the termination of the plan or agreement, whichever occurs first;
- (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 individuals 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; or
- (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a handicapped person.”

**SECTION 2.** Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 31, 1985.)