

ACT 227

H.B. NO. 2774

A Bill for an Act Relating to Discrimination in Public Places.

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

SECTION 1. The legislature finds that medical research has documented the many benefits of breast milk to the health of children. In fact, the American Academy of Pediatrics recommends that women breast feed for at least the first twelve months of a child's life, because to a child, the best meal is a breast meal.

However, the legislature finds that on occasion, mothers have been told to leave public premises or have been discouraged from breast feeding by being told to breast feed in a restroom. The legislature believes that Hawaii's laws should support mothers who choose to breast feed their children.

The purpose of this Act is to recognize the right of mothers to breast feed their children in places of public accommodations, such as stores, parks, and restaurants.

SECTION 2. Chapter 489, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . BREAST FEEDING IN PUBLIC ACCOMMODATIONS

§489- Discriminatory practices; breast feeding. It is a discriminatory practice to deny, or attempt to deny, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodations to a woman because she is breast feeding a child.

§489- Private cause of action. Any person who is injured by an unlawful discriminatory practice under this part may bring proceedings to enjoin the unlawful discriminatory practice, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable attorneys' fees, the cost of suit, and \$100. Any action under this part shall be subject to the jurisdiction of the district courts as provided in chapter 604, and may be commenced and conducted in the small claims division of the district court.

§489- Exclusion from civil rights commission. Notwithstanding the provisions of chapter 368, this part shall not be subject to chapter 368 and shall not be enforced by the civil rights commission.”

SECTION 3. Chapter 489, Hawaii Revised Statutes is amended by designating sections 489-1 to 489-8 as part I, entitled “General Provisions”.

SECTION 4. Section 489-6, Hawaii Revised Statutes, is amended to read as follows:

“§489-6 Complaint against unfair discrimination; reporting requirements. The civil rights commission shall receive complaints of unfair discriminatory treatment in public accommodations in accordance with the procedures established under chapter 368[.]; provided that this section shall not apply to complaints under part of this chapter.”

SECTION 5. Section 489-7.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§489-7.5]] Suits by persons injured; amount of recovery, injunctions. (a) Any person who is injured by an unlawful discriminatory practice, other than an unlawful discriminatory practice under part of this chapter, may:

- (1) Sue for damages sustained, and, if the judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than \$1,000 or threefold damages by the plaintiff sustained, whichever sum is the greater, and reasonable attorneys' fees together with the costs of suit; and

- (2) Bring proceedings to enjoin the unlawful discriminatory practices, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable attorneys' fees together with the cost of suit.
- (b) The remedies provided in subsection (a) shall be applied in class action and de facto class action lawsuits or proceedings provided that:
- (1) The minimum \$1,000 recovery provided in subsection (a) shall not apply in a class action or a de facto class action lawsuit; and
- (2) That portion of threefold damages in excess of compensatory damages shall be apportioned and allocated by the court in its exercise of discretion so as to promote effective enforcement of this chapter and deterrence from violation of its provisions.
- (c) The remedies provided in this section are cumulative and may be brought in one action."

SECTION 6. Section 489-8, Hawaii Revised Statutes, is amended to read as follows:

“§489-8 Civil penalty. (a) It shall be unlawful for a person to discriminate unfairly in public accommodations.

(b) Any person, firm, company, association, or corporation who violates this chapter shall be fined a sum of not less []than[] \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the civil rights commission on behalf of the State. The penalties provided in this section shall be cumulative to the remedies or penalties available under all other laws of this State. Each day of violation under this chapter shall be a separate violation.

(c) This section shall not apply to violations of part of this chapter.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect on approval.

(Approved June 14, 2000.)