
A BILL FOR AN ACT

RELATING TO DISCRIMINATORY PRACTICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State of Hawaii
2 has strong laws against discrimination in employment on the
3 basis of disability, embodied in sections 378-1 and 378-2,
4 Hawaii Revised Statutes, and rules adopted by the civil rights
5 commission. In many respects, state law provides stronger
6 protections than those provided under federal law prohibiting
7 employment discrimination based on disability. The legislature
8 recognizes that pursuant to *California Federal Sav. and Loan*
9 *Ass'n v. Guerra*, 479 U.S. 272, 107 S.Ct. 683 (1987), federal law
10 is a "floor" beneath which protections against discrimination
11 should not drop, rather than a "ceiling" above which protections
12 cannot rise under state anti-discrimination laws.

13 The legislature further finds that on September 25, 2008,
14 President George W. Bush signed into law the ADA Amendments Act
15 of 2008, P.L. 110-325 ("ADAAA"). In the ADAAA, Congress found
16 that several United States Supreme Court decisions interpreted
17 the definition of disability inconsistently with legislative



1 intent. The ADAAA clarified laws relating to employment
2 disability, broadening the definition of disability and
3 resulting in certain federal law protections that are stronger
4 than corresponding protections currently provided under Hawaii
5 law.

6 The purpose of this Act is to require the Hawaii civil
7 rights commission to adopt administrative rules to define
8 certain terms to conform state law protections against
9 disability discrimination in employment to recently amended
10 federal law.

11 SECTION 2. Chapter 368, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§368- Authority to define operative terms. (a) The
15 commission, pursuant to its authority under section 368-3(9),
16 shall adopt rules to define or amend, as applicable, the
17 following terms for purposes of chapter 378 to bring conformity
18 between state and federal statutory protections against
19 disability discrimination in employment:

- 20 (1) "Major life activities";
21 (2) "Being regarded as having such an impairment";
22 (3) "Disability";



1 (4) "Substantially limits"; and

2 (5) Other operative terms.

3 (b) The commission shall apply, at a minimum, the
4 definitions in the Americans with Disabilities Act Amendments
5 Act; provided that:

6 (1) The definition of "disability" under section 378-1 and
7 the implementing administrative rules thereto shall be
8 construed, at a minimum, to conform to the Americans
9 with Disabilities Act Amendments Act; and

10 (2) Within one year from the effective date of any federal
11 statutory revision to a relevant definition used in
12 chapter 368, the commission shall adopt, amend, or
13 repeal rules to reflect any amendments to state
14 statutes that were required to conform to the federal
15 statutory revisions."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on January 1, 2046.



Report Title:

Employment; Discriminatory Practices; Disability

Description:

Statutorily authorizes and requires the Hawaii civil rights commission to define in administrative rules certain definitions for purposes of discriminatory employment practices. Takes effect January 1, 2046. (SB1183 HD2)

