STAND. COM. REP. NO. **157** Honolulu, Hawaii **FEB 1 1** RE: H.B. No. 1253 H.D. 1

Honorable Scott K. Saiki Speaker, House of Representatives Thirty-First State Legislature Regular Session of 2021 State of Hawaii

Sir:

Your Committee on Labor & Tourism, to which was referred H.B. No. 1253 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES,"

begs leave to report as follows:

The purpose of this measure is to prohibit an employer from:

- Requiring an employee to download a mobile application to the employee's personal communication device that enables the employee's location to be tracked or their personal information revealed;
- (2) Terminating or otherwise discriminating against an employee for refusing to download a mobile application to the employee's personal communication device; or
- (3) Discharging or otherwise discriminating against an employee for filing a complaint, testifying, or assisting in any proceeding concerning these unlawful practices.

Your Committee received comments on this measure from the Department of Labor and Industrial Relations and Maui Chamber of Commerce.



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Your Committee finds that, in response to the COVID-19 pandemic, applications for mobile phones have been promoted as a means to track the whereabouts of individuals who may have been exposed to someone testing positive for the virus, prompting privacy concerns and anxiety over potential misuse of the location information. While mobile phone users may voluntarily agree to be tracked, your Committee finds that privacy concerns dictate against making this requirement a condition of employment.

Your Committee further finds that the Department of Labor and Industrial Relations indicated it may not have the resources to enforce this measure and suggested a private right of action be made available.

Accordingly, your Committee has amended this measure by:

- Removing language requiring the Department of Labor and Industrial Relations to enforce this measure;
- (2) Creating a civil action for injunctive relief or damages for a violation of this measure; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1253, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

> Respectfully submitted on behalf of the members of the Committee on Labor & Tourism,

RICHARD H.K. ONISHI, Chair



State of Hawaii House of Representatives The Thirty-first Legislature

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Record of Votes of the Committee on Labor & Tourism

Bill/Resolution No.: HB 1253	Committee	Referral: LAT, CPC	Date:	2-09-21	
θ The committee is reconsidering	its previous decision		-		
The recommendation is to: θ θ	Pass, unamended (Pass short form bil		ss, with amendments (mmit for future public		
LAT Member	s	Ayes	Ayes (WR)	Nays	Excused
1. ONISHI, Richard H.K. (C)	V			
2. SAYAMA, Jackson D. (VC	C)	\checkmark			
a da anti-anti-anti-anti-anti-anti- anti-anti-anti-anti-anti-anti-anti-anti-					
3. BELATTI, Della Au		V			
4. HOLT, Daniel		V			
5. KOBAYASHI, Dale T.					
5. KOBAYASHI, Dale T.		V			事業業務またい?
6. QUINLAN, Sean			n de la comune Cruie <u>de la Constitución de la constitución de</u>		
7. TAKAYAMA, Gregg		V		and a stand of the second s	yan yang sang sang sang sang sang sang sang s
8. OKIMOTO, Val		V			
				<u>.</u>	
X					
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TOTAL (8)		7	0	0	
	Adopted If joint referral,	θ Not Adopted did not support recommendation. committee acronym(s)			
Vice Chair's or designee's signat	ure: Jent	Gym			
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO					