



GOV. MSG. NO. 1155

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 16, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 16, 2021, the following bill was signed into law:

SB793 SD1 HD1 CD1

RELATING TO THE MINIMUM WAGE
ACT 055 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO THE MINIMUM WAGE.

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

1 SECTION 1. The legislature finds that the real problems of
2 disability arise not from the medical conditions themselves, but
3 rather from the low expectations, misinformation, and
4 socially-constructed systemic barriers associated with the
5 conditions. Individuals with disabilities are subject to low
6 expectations particularly in employment and the system preparing
7 them for employment, such as education and rehabilitation
8 programs.

9 Section 14(c) of the Fair Labor Standards Act
10 (Section 14(c)) denies people the guarantee of a minimum wage
11 for potentially any job and at any point in their career, based
12 on their disability status. As reported by the Arizona Advisory
13 Committee on the U.S. Commission on Civil Rights in its 2020
14 submittal, "Subminimum Wages for Persons with Disabilities Under
15 Section 14(c) of the Fair Labor Standards Act," in a world after
16 the enactment of the Americans with Disabilities Act,
17 Section 14(c) can be considered a federal law that discriminates
18 against individuals with disabilities. Section 14(c) is



1 different from its counterpart sections 14(a) and 14(b) in that
2 the bases for allowing payment of below minimum wage in those
3 sections are the job being performed or the particular stage in
4 the individual's career, which can be temporary, whereas an
5 individual's disability status can be lifelong.

6 The original intent of Section 14(c) was to serve as a
7 platform to train and prepare individuals with disabilities to
8 gain open-market competitive jobs. However, the Arizona
9 Advisory Committee reported that Section 14(c) cannot be
10 justified as a policy to increase open-market employment
11 opportunities for individuals with disabilities. It has been
12 shown that Section 14(c) simply provided a subsidy for sheltered
13 workshops that do not support movement of their workers to
14 competitive employment. Section 14(c) no longer fulfills its
15 original intent and runs contrary to the American with
16 Disabilities Act, which was enacted subsequently. Section 14(c)
17 is an outdated law that only serves to perpetuate
18 misinformation, stigma, and stereotypes of individuals with
19 disabilities.

20 The purpose of this Act is to repeal existing law that
21 exempts individuals with disabilities from minimum wage



1 requirements as a cost neutral initiative with great positive
2 impact on the lives of individuals with disabilities.

3 SECTION 2. Section 103D-1001, Hawaii Revised Statutes, is
4 amended by amending the definition of "qualified community
5 rehabilitation program" to read as follows:

6 "Qualified community rehabilitation program" means a
7 nonprofit community rehabilitation program for ~~[persons]~~
8 individuals with disabilities that:

9 (1) Is organized and incorporated under the laws of the
10 United States or this State, and located in this
11 State;

12 (2) Is operated in the interest of and ~~[+]~~employs~~[+]~~
13 ~~persons]~~ individuals with disabilities;

14 (3) Does not inure any part of its net income to any
15 shareholder or other individual;

16 (4) Complies with all applicable occupational health and
17 safety standards required by the federal, state, and
18 county governments; and

19 ~~(5) [Holds a current certificate from the United States~~
20 ~~Department of Labor pursuant to the Fair Labor~~
21 ~~Standards Act, Title 29 United States Code~~



1 ~~section 214(c), and is certified by the state~~
2 ~~department of labor and industrial relations under~~
3 ~~section 387-9 and applicable administrative rules~~
4 ~~relating to the employment of persons with~~
5 ~~disabilities.] Maintains a disabled to non-disabled~~
6 ~~employee ratio equal to or greater than one to three~~
7 ~~at all times. To ensure integrated employment of~~
8 ~~individuals with disabilities, this one-to-three ratio~~
9 ~~is to include all levels of employment, management,~~
10 ~~and sub-contracting."~~

11 SECTION 3. Section 387-9, Hawaii Revised Statutes, is
12 amended by amending its title and subsection (a) to read as
13 follows:

14 "§387-9 Special minimum wages for learners; apprentices;
15 full-time students; paroled wards of Hawaii youth correctional
16 facility [~~handicapped workers~~]. (a) Notwithstanding the
17 provisions of section 387-2, the director [~~may~~], by rule, may
18 provide for the employment [+

19 ~~(1)~~ ~~of~~ of learners [~~of~~]; apprentices [~~of~~]; part-time
20 employees who are full-time students attending public
21 or private schools other than colleges, universities,



1 business schools, or technical schools~~[7]~~; and ~~[e]~~
 2 wards paroled from the Hawaii youth correctional
 3 facility, under special certificates issued by the
 4 director, at ~~[such]~~ wages lower than the applicable
 5 minimum wage and subject to ~~[such]~~ limitations as to
 6 time, number, proportion, and length of service as the
 7 director shall prescribe~~[7 and~~
 8 ~~(2) Of individuals whose earning capacity is impaired by~~
 9 ~~old age or physical or mental deficiency or injury,~~
 10 ~~under special certificates issued by the director, at~~
 11 ~~such wages lower than the applicable minimum wage and~~
 12 ~~for such period as shall be fixed in the~~
 13 ~~certificates]."~~

14 SECTION 4. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 16 day of JUN, 2021

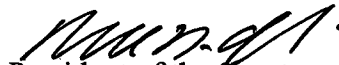



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 793, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives