

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO EQUITY.

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

1           SECTION 1. Chapter 489, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           "PART           .   UNIVERSAL CHANGING ACCOMMODATIONS

5           §489-       Definitions. As used in this part:

6           "New establishment" means a place of public accommodation  
7 or state building construction that is constructed after  
8 December 31, 2023.

9           "Restroom for public use" means a restroom that is  
10 accessible to persons other than employees of the public  
11 accommodation in which the restroom is located.

12           "State building construction" shall have the same meaning  
13 as used in section 107-21.

14           "Universal changing accommodation" means a powered, height  
15 adjustable adult changing station that is either floor or wall  
16 mounted that is installed within an enclosed restroom facility  
17 in women's, men's, or unisex family restrooms.



1           **§489- New establishments; criteria and application.** A  
2 place of public accommodation or state building construction  
3 shall be deemed to be constructed on the earlier of the date a  
4 certificate of occupancy is issued or the first date of  
5 occupancy for public use, regardless of whether the  
6 establishment has obtained a certificate of occupancy in  
7 compliance with applicable state and county laws.

8           **§489- Requirement to provide universal changing**  
9 **accommodations.** (a) On each floor containing restrooms for  
10 public use, each new establishment shall be required to provide,  
11 at a minimum, the following:

12           (1) Two universal changing accommodations that are  
13           accessible, one each, by women and men; or

14           (2) One universal changing accommodation that is  
15           accessible by both women and men.

16           (b) Each new establishment shall post signage indicating  
17 the location of the universal changing accommodations.

18           (c) A violation of this section shall constitute an  
19 unlawful discriminatory practice.

20           **§489- Construction documents.** Construction documents  
21 for new establishments shall show whether or not a restroom is a



1 restroom for public use as defined in this part, and the  
2 location of each universal changing accommodation within all  
3 restrooms for public use. If a restroom is not shown as a  
4 restroom for public use on the construction documents and,  
5 subsequent to the issuance of the building permit authorizing  
6 the construction or renovation of the restroom, there is a  
7 change in the designation of the restroom to a restroom for  
8 public use, a universal changing accommodation shall be provided  
9 upon the change of designation.

10       **§489- Hardship exemption.** A new establishment shall not  
11 be subject to the provisions of this part if compliance would  
12 create a hardship. Compliance shall be deemed to create a  
13 hardship if:

- 14       (1) No reasonable physical option exists for providing  
15           universal changing accommodations; or  
16       (2) The cost of providing universal changing  
17           accommodations exceeds ten per cent of the cost of  
18           constructing, purchasing, or substantially modifying  
19           the building or facility.

20       **§489- Violations; private cause of action.** Any person  
21 who is injured by an unlawful discriminatory practice under this



1 part may bring proceedings to enjoin the unlawful discriminatory  
2 practice, and if the judgment is for the plaintiff, the  
3 plaintiff shall be awarded reasonable attorneys' fees, the cost  
4 of suit, and a sum of \$100. Any action under this part shall be  
5 subject to the jurisdiction of the district courts as provided  
6 in chapter 604, and may be commenced and conducted in the small  
7 claims division of the district court.

8           **§489- Exclusion from Hawaii civil rights commission.**

9 Notwithstanding any other law to the contrary, this part shall  
10 not be subject to chapter 368 and shall not be enforced by the  
11 Hawaii civil rights commission."

12           SECTION 2. Section 107-27, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§107-27 Design of state buildings.** (a) No later than  
15 one year after the adoption of codes or standards pursuant to  
16 section 107-24(c), the design of all state building construction  
17 shall be in compliance with the Hawaii state building codes,  
18 except state building construction shall be allowed to be  
19 exempted from:

- 20           (1) County codes that have not adopted the Hawaii state  
21           building codes;



1           (2) Any county code amendments that are inconsistent with  
2           the minimum performance objectives of the Hawaii state  
3           building codes or the objectives enumerated in this  
4           part; or

5           (3) Any county code amendments that are contrary to code  
6           amendments adopted by another county.

7           (b) Exemptions shall include county ordinances allowing  
8           the exercise of indigenous Hawaiian architecture adopted in  
9           accordance with section 46-1.55.

10          (c) The State shall consider hurricane resistant criteria  
11          when designing and constructing new public schools for the  
12          capability of providing shelter refuge.

13          (d) Beginning July 1, 2023, where feasible and cost-  
14          effective, the design of all new state building construction  
15          shall:

16           (1) Maximize energy and water efficiency measures;

17           (2) Maximize energy generation potential; and

18           (3) Use building materials that reduce the carbon  
19           footprint of the project.

20          (e) State building construction shall include universal  
21          changing accommodations pursuant to part            of chapter 489."



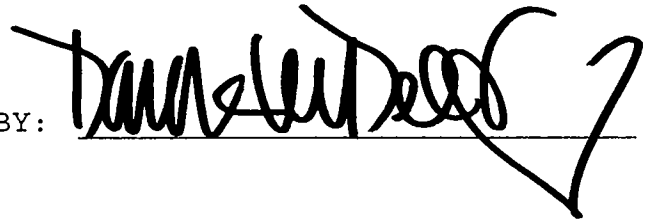
1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be the name of a legislator.

# S.B. NO. 389

**Report Title:**

Equity; Universal Changing Accommodations; Public Accommodation;  
State Building Construction

**Description:**

Requires all places of public accommodation and state building construction constructed after 12/31/23 to provide universal changing accommodations that are equally accessible to men and women.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

