

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

January 30, 2023

To: The Honorable Sharon Y. Moriwaki, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Monday, January 30, 2023
Time: 3:00 p.m.
Place: Conference Room 224, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 42 RELATING TO FAIR SCHEDULING

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR supports the intent and offers comments** on this proposal. SB42 proposes to amend the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), by adding a new section to require employers to provide 10 days written notice of the employee's work schedule or pay two times the employee's regular rate of pay for time worked where ten days written notice was not provided. The bill also excludes certain family members and collective bargaining agreements and defines employee and employer differently than the rest of the chapter.

II. CURRENT LAW

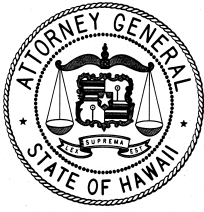
There is no requirement to give advance notice of work schedules. §387-1 Definitions includes fourteen exclusions to the definition of "employee" and the definition of "employer" excludes the State, any political subdivision, or the United States. There is a requirement to provide written notice of rate of pay, time and place of payment, and any changes to the pay arrangement, in the Payment of Wages and Other Compensation Law, Section 388-7, HRS.

III. COMMENTS ON THE SENATE BILL

The DLIR supports the intent of the measure to provide advance notice of work schedules. The Wage Standards Division (WSD) does not have metrics pertinent to the issue, but can confirm that the issue does arise occasionally with no recourse for an employee.

The DLIR suggests Chapter 388, HRS may be the more appropriate statutory placement for this subject matter. The DLIR also recommends that an exception be made for work performed on State or county construction projects subject to the Wages and Hours of Employees on Public Works Law, Chapter 104, HRS.

DLIR notes that if it is required to administer these provisions that broaden the scope of enforcement, it would likely need two additional Labor Law Enforcement Specialists to effectively enforce the law due to an anticipated increase in the number of complaints filed when employees, including new hires, are provided less than ten days written notice, or their work schedules are subject to last minute changes, and the employee is not paid two times their regular rate of pay for those hours worked.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 42, RELATING TO FAIR SCHEDULING.

BEFORE THE:

SENATE COMMITTEE ON LABOR AND TECHNOLOGY

DATE: Monday, January 30, 2023 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Nelson T. Higa or Li-Ann Yamashiro, Deputy Attorneys General

Chair Moriwaki and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill amends chapter 387, Hawaii Revised Statutes (HRS), by adding a new section that requires employers to provide employees with ten days advance written notice before the employee is scheduled to work. Should the employee receive less than ten days written notice before a shift, the employee would be entitled to double the employee's regular rate of pay for the shift.

For purposes of clarity, we recommend that this new section be placed in chapter 388, HRS, instead of in chapter 387, HRS. Chapter 387, HRS, is Hawaii's Wage and Hour Law, governing matters such as the minimum wage. The new section proposed in section 2 of the bill would be more appropriately placed in chapter 388, Hawaii's Payment of Wages and Other Compensation Law, because that chapter encompasses the payment of wages, notification requirements, and penalties for violations.

We recommend deleting the definitions of "employee" and "employer" at page 3, lines 3 through 8. Those definitions of "employee" and "employer" differ from the definitions already in section 387-1, HRS (and also the ones in section 388-1, HRS), but the bill does not amend or repeal the existing definitions. Thus, there would be an inconsistency if the bill were to pass in its current form. Additionally, the proposed definition of "employer" does not exclude the United States, and the State lacks authority to enforce its wage laws against the federal government as an employer.

Thank you for the opportunity to testify.



**Testimony to the Senate Committee on Labor and Technology
Monday, January 30, 2023, at 3:00 P.M.
Conference Room 224 & Videoconference**

RE: SB 42 Relating to Fair Scheduling

Chair Moriwaki, Vice Chair Lee, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") does not support SB 2288, which Requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is schedule to work, under certain conditions.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

A key component to attract employees to certain industries, such as retail and food service, is the flexibility in scheduling. Flexible scheduling is a benefit to both the employee and the employer. For example, the employee can choose to work around their changing school schedules and demands, while their children are in school or around another job's schedule.

An employer relies on flexible scheduling to meet the needs of a rapidly changing business environment including ramping up hours during peak seasons or special events, where at times changes to the schedule are necessary and unavoidable.

Scheduling is a complex process with many different data points being taken under consideration at the same time such as employee shift preference, sales forecasts, delivery schedules, employee breaks, payroll hours, and promotional events or anticipated swings in customer traffic. Eliminating the flexibility in scheduling will have a negative impact on both the employee and employer. Employees will have to give their availability much further out which may cause challenges for day care, school schedules or other outside commitments. Employers may be less likely to make changes to schedules, such as adding hours or accommodating last minute requests due to the penalty pay provision.

Every company is unique in their business processes and this proposal fails to contemplate those unique differences. One size does not fit all.

We respectfully ask that the bill be held. Thank you for the opportunity to testify.

Testimony of Matson Navigation Company, Inc.
Opposition to SB42
Before the Committee on Labor and Technology
January 30, 2023

Dear Chair Moriwaki, Vice Chair Lee, and Members of the Committee:

Matson Navigation Company, Inc. (Matson) appreciates the intent of SB42, which, among other things, requires employers to pay double-time wages if employees are not provided with at least ten days' written notice of their shift schedules unless covered by a collective bargaining agreement. Respectfully, Matson opposes this measure as written.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support dependable and efficient cargo transportation and handling to service our residents and businesses.

While most of Matson's employees are either employed under collective bargaining agreements or are otherwise provided with written notice of their schedules, there are instances in which last minute schedule changes are required. For example, severe weather could cause last minute changes in schedules. This measure would require the payment of double wages in such situations. Accordingly, it could slow the delivery and increase the cost of goods to the residents of our State.

Thank you for considering our testimony.



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Hawaii Petroleum, LLC

Testimony of Eric Wright

President of the Hawaii Energy Marketers Association (HEMA)

SENATE BILL 42 RELATING TO FAIR SCHEDULING

SENATE COMMITTEE ON LABOR AND TECHNOLOGY

The Honorable Sharon Y. Moriwaki, Chair

The Honorable Chris Lee, Vice Chair

Monday, January 30, 2023 @ 3:00 PM

Conference Room 224 & Videoconference

Aloha Chair Moriwaki, Vice Chair Lee, and Members of the Committee:

I am Eric Wright, president of the Hawaii Energy Marketers Association (HEMA). HEMA is a nonprofit trade association comprised of members who market motor fuel products and operate convenience stores across the Hawaiian Islands.

Senate Bill 42 requires employers to provide written notice of the employee's shift schedule ten days in advance before the scheduled work and compensate employees twice of regular pay for time worked when shift scheduled was not timely provided.

While it is not unreasonable to require employers to notify their employees of their shift schedules in advance, placing rigid requirements on employers could pose significant hardship. In any industry, it is not unusual for an employee to call in sick, and for the employer to have to call someone else in to work that shift. This requirement would mean that an employer would almost never be able to deviate from work schedules, which is unrealistic and excessive.

Key component of attracting and retaining employees is flexibility in scheduling. It is even more valuable in a post-pandemic work environment. An employer relies on flexible scheduling to meet the needs of a rapidly changing business environment including ramping up hours during peak seasons or special events, where at times changes to the schedule are necessary and unavoidable.

We respectfully oppose this measure and ask that you allow employees and businesses to have the flexibility to create schedules that meet their needs.

Thank you for the opportunity to provide testimony in opposition to Senate Bill 42.



Ryan Tanaka, Chairman – Giovanni Pastrami Ave Kwok, Incoming Chair- Jade Dynasty

Andy Huang, Vice Chairman-L&L Hawaiian BBQ

Tambara Garrick, Secretary – Hawaii Farm Project

Kahili Soon, Treasurer – Hukilau Marketplace

Greg Maples, Past Chair – Polynesian Cultural Center

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2022- 23

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Date: January 28, 2023

To: Senator Sharon Y. Moriwaki, Chair
Senator Chris Lee, Vice Chair
Members of the Committee on Labor and Technology

From: Victor Lim, Legislative Lead

Subject: SB42 RELATING TO FAIR SCHEDULING

The Hawaii Restaurant Association representing 3,400 restaurants here in Hawaii opposes SB42 as it is currently written.

Where a typical work week either starts on a Sunday or Monday, we would suggest that a 7 calendar day or a week notice will be more practical and also give the employee a reasonable lead time.

Requiring the employer to pay the employee two times the employee's regular rate of pay when the employee is not provided the above 10 calendar days provision doesn't work in my talking to businesses in Seattle and New York and should not be considered. In situations where someone called in sick, the employer whether general retail or in a restaurant situation, the double time penalty discourages the employer to bring anyone in to cover the sick employee's shift because of the high costs. The net result is that someone that is willing to work and want more hours will not be called in. Here we have a lose /lose situation confirmed to me by my counterparts in those areas with these provisions.

Our restaurant industry is barely coming out of two years of Covid and now facing high interest rates along with super high inflation on all our other costs make everything very tentative on our ability to survive.

Thank you for giving us this opportunity to share our concerns.





HAWAI'I LODGING & TOURISM

A S S O C I A T I O N

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Senate Committee on Labor & Technology
Senate Bill 42
January 30, 2023

Chair Moriwaki, and members of the Committee, mahalo for the opportunity to provide testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's oldest and largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—remains staunchly opposed to any measure that would result in governmental overreach into the day-to-day operations of private business. It is our position that business owners and operators understand the inner workings of their respective businesses better than any other entity. As such, governmental overreach often results in the creation of new issues that often outweigh the problem targeted by the proposed legislation.

Additionally, Senate Bill 42 does not provide enough flexibility for employers or employees, both of whom will experience unplanned changes to their schedules and availability. This measure is unnecessarily strict and will have negative effects across the board.

For these reasons, HLTA opposes Senate Bill 42.

Mahalo for the opportunity to offer these comments.



Saturday, January 28, 2023

To: Senator Sharon Moriwaki, Chair, Senator Chris Lee, Vice Chair and members of the committee.

SB42 Predictable Scheduling

From Highway Inn

Highway Inn opposes SB42

We have 110 employees for whom we provide weekly work schedules accessible via a smartphone app. 1/3rd of those employees are full-time. The 70 or so part-time employees, who often value flexibility, provide their availability up to the day before we publish schedules on Saturday for the week beginning on Sunday because of their school or other commitments. Thus, it is largely employees that prevent us from locking in labor schedules until the eleventh hour.

If we were asked to lock in a labor schedule 10 days prior to the schedule start, that schedule would be 50% pure fiction,

Then, every week we process around 15-20 schedule edits for employees swapping shifts for their changing schedules or on sick calls. This is the nature of the business we are in. It is reflective of the new flexible gig economy, and allows businesses to match demand with staff to better serve customers. Employers would not call in employees owing to the 2X penalty making businesses operate at a loss. Customer service would decay and hasten the demise of more companies.

Imagine how you would feel if the TSA just scheduled one person at an Airport security checkpoint because it could not respond to a change in demand from one hour to the next.

On a busy day, employees may stick around for an hour or so longer than their published schedule to cover more customers. Would we then be forced to pay double time overtime for two hours, even though the person only was scheduled for 6 hours? If that person went into weekly overtime, would we be paying 3.5x their hourly salary? How would this ever be enforced? Current payroll systems cannot track this data, and if it were done manually, restaurants would have to hire another person at each location to keep track of the information required for compliance.

We struggle to see any benefit to employees and employers alike of forcing us to pay a person at twice their payrate rate because we cannot accurately predict the events of 110 people's personal lives 10 days in the future. It is hard to understand what problem this intended legislation is attempting to solve.

Continued action against restaurants that restrict their ability to manage their own business will further the trend of restaurants not complying with state laws. In the past month, we lost two employees to another restaurant paying them 'under the table' to get the employees more net pay at a lower cost to the employer and less income to the State. Hawaii does not need a grey market for labor.

Mahalo for seeking our opinion and reading it to the end.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
January 30, 2023
Re: SB 42 Relating to Fair Scheduling**

Good afternoon Chair Moriwaki, and members of the Senate Committee on Labor and Technology. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

The Retail Merchants of Hawaii strongly opposes SB 42 Relating to Fair Scheduling. This bill requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is scheduled to work, under certain circumstances. Requires certain employers to pay their employees twice as much as their regular rate of pay for time worked when their shift schedule was not timely given.

Many employees choose retail jobs for the flexible hours and ability to design their schedules around school obligations, caregiving, family events, and other commitments outside of work. To succeed in a competitive industry, retailers need the ability to tailor work schedules to the meet the needs of a diverse employee population, as well as the autonomy to make necessary adjustments to staffing levels as customer demand fluctuates. We have seen that the further out schedules are required to be posted, the less accurate the forecasting model becomes at predicting staffing that meets the business needs. Many businesses schedule workers weekly, and yes worker schedules may vary significantly from week to week. For businesses it is often difficult and sometimes next to impossible to predict how many workers may be needed on specific days.

In the service industry, employees are constantly making last minute request to change their schedule, sometimes even a day before their scheduled shift due to personal, family or medical reasons. Retailers like other service industries need to be able to make these changes to maintain customer service levels as well as to keep the work environment safe without being penalized for changing the schedule.

This bill would eliminate flexibility in the workplace for both employers and employees, deny employees the opportunity to work additional hours if desired, limit employers' ability to accommodate customer demands, and subject employers to unnecessary layers of penalties, investigative actions, and costly litigation.

The less flexibility in scheduling creates a less flexible workforce. In order to comply with the law and maintain set schedules, employers may have to hire more workers because the current workforce is more constrained in its ability to flex into different shifts depending upon changing business needs, resulting in fewer hours available for all team members. Every company is unique in their business processes and these proposals fail to contemplate those unique differences.

We also question if excluding the family members listed is a violation of employment law. It is our understanding that hiring a family member is just like hiring anyone else and the labor laws apply to those family members who are employed. The IRS makes some exceptions for employees who are the children, or the spouse, but the details depend on the business's legal structure.

This subsection shall not apply when the employee is the employer's sibling, sibling-in-law, child, spouse, parent, or parent-in-law.

Retailers are already operating on thin margins as well as trying to accommodate full time, part time and on-call employees. Policy makers should be focusing in on eliminating obstacles to business growth, job creation and economic stability and not adding additional costs that employers cannot afford.

We respectfully ask that you hold this measure. Again, mahalo for this opportunity to testify.

SB-42

Submitted on: 1/29/2023 3:45:53 PM

Testimony for LBT on 1/30/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Thomas Jones	Testifying for Gyotaku Japanese Restaurants	Oppose	Written Testimony Only

Comments:

Labor & Technology Committee Chair Morikawa, Vice Chair Lee,
Committee Members Sen. Ihara, Jr. Sen, Keith-Agaran & Sen Fevella

RE: Opposition to SB42

However well intentioned, I am in opposition to SB42 for the following reasons:

- It would be an unbearable economic burden to my restaurants. Paying 1.5 to 2 times the cost of a regular scheduled employee to replace a sick call or fservice a last minute reservation would be too costly to bear.
- Unfilled positions with employees willing to fill them at the regular rate would not benefit the employee, the customer or the employer.
- The job market is so tight that employers are paying premium wages already.
- The need for employees is so great at this time that employer are not in a position to force employees to come to work when its not convenient to the employee. So employee by and large work when they want to and set their own schedule availability.
- Many employees want to take shifts "On Call" if they were not scheduled in the first place. These staff members would end up with much fewer shifts and income.
- It would result in a an increase in prices to cover the lost sales and or higher wages.

I'm not sure what problem this legislation is trying to solve. From our experience, employees are not forced to work against their will and most appreciate the opportunity to work extra shifts at their convenience. In restaurants, tipped employees earn several times the minimum wage in tips and that is a significant reason they are willing to come in on short notice or call.

Sincerely,

Tom Jones

President & CO-Owner

Gyotaku Japanese Restaurants

Testimony of the Hawaii Harbor Users Group
Opposition to SB42
Before the Committee on Labor and Technology
January 30, 2023

Dear Chair Moriwaki, Vice Chair Lee, and Members of the Committee:

The Hawaii Harbor Users Group (HHUG) is a non-profit maritime transportation industry group comprised of key commercial harbor users statewide.

HHUG appreciates the intent of SB42, which, among other things, requires employers to pay double-time wages if employees are not provided with at least ten days' written notice of their shift schedules unless covered by a collective bargaining agreement. Respectfully, HHUG opposes this measure as written.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support dependable and efficient cargo transportation and handling to service our residents and businesses.

While most of our members' employees are either employed under collective bargaining agreements or are otherwise provided with written notice of their schedules, there are instances in which last minute schedule changes are required. For example, severe weather could cause last minute changes in schedules. This measure would require the payment of double wages in such situations. Accordingly, it could slow the delivery and increase the cost of goods to the residents of our State.

Thank you for considering our testimony.

January 29, 2023

LATE



Working together for Kapolei

Committee on Labor and Technology
Senator Sharon Y. Moriwaki, Chair
Senator Chris Lee, Vice Chair

Monday, January 30, 2023, 3:00 p.m.
Conference Room #224 and Videoconference

RE: SB42, RELATING TO FAIR SCHEDULING

Dear Chair Moriwaki, Vice Chair Lee and members of the Committee,

My name is Kiran Polk, and I am the Executive Director of the Kapolei Chamber of Commerce. The Kapolei Chamber of Commerce is an advocate for businesses in the Kapolei region and West O'ahu. The Chamber works on behalf of its members and the entire business community to improve the regional and State economic climate and help Kapolei businesses thrive. We are a member-driven, member-supported organization representing the interests of all types of business: small, medium or large, for profit or non-profit businesses or sole proprietorship.

The Kapolei Chamber of Commerce **strongly opposes SB42**. SB42 requires employers to provide written notice of the employee's shift schedule ten days in advance before the scheduled work and compensate employees twice of regular pay for time worked when shift scheduled was not timely provided.

A key component to attract employees to certain industries, such as retail and food service, is the flexibility in scheduling. Flexible scheduling is a benefit to both the employee and the employer. For example, the employee can choose to work around their changing school schedules and demands, while their children are in school or around another job's schedule. An employer relies on flexible scheduling to meet the needs of a rapidly changing business environment including ramping up hours during peak seasons or special events, where at times changes to the schedule are necessary and unavoidable. **It is the flexibility of scheduling that allows many employees to work multiple jobs and this legislation will impact employee and employer flexibility of scheduling.**

Also, many of our businesses are struggling with staffing and coverage. Our small businesses have especially been impacted. Flexibility in scheduling is an essential element needed in many industries, and even more specifically for sustainability for our small businesses. Creating a more restrictive regulatory environment for scheduling may indeed adversely affect many of our small businesses who are still struggling to recover from the pandemic and move forward.

Thank you for this opportunity to provide testimony.

Best,

A handwritten signature in black ink, appearing to read "K. Polk", on a light-colored background.

Kiran Polk
Executive Director

LATE



Senate Committee on Labor and Technology
Senator Moriwaki, Chair
Senator Lee, Vice Chair
Monday, January 30, 2023 at 3:00 P.M.

RE: SB 42 Relating to Fair Scheduling

Chair Moriwaki, Vice Chair Lee, and Members of the Committee:

The Society of Human Resource Management (SHRM) Hawaii respectfully opposes SB 42 – Relating to Fair Scheduling which requires employers to provide employees with written notice of the employee's shift schedule at least ten calendar days before the employee is scheduled to work, under certain circumstances. Requires certain employers to pay their employees twice as much as their regular rate of pay for time worked when their shift schedule was not timely given.

SHRM Hawaii serves and represents nearly 600 members and employers statewide and human resource management is a critical component to the success and survival of the many businesses that make up our local economy. HR professionals are responsible for evaluating and balancing the needs of both the employers and employees and caring for businesses' most valuable asset: the working people of Hawaii.

We believe that this bill will have an immediate negative effect on the ability of many businesses to operate and, at a minimum, create a significant logistical burden on human resource management professionals. For example, the bill is very broad in scope such that a large percentage of employers in Hawaii will be adversely impacted as it encompasses virtually all employers and all sectors of the workforce including public/governmental employers as well as private employers. The only exceptions are those smaller employers whose workforce is essentially limited to immediate family members or those currently covered by a collective bargaining agreement. Additionally, the bill is not limited to hourly or part time workers but includes both exempt and non-exempt employees including higher wage earners.



Employers are already struggling with the current worker shortage. These staffing issues force employers to make short-term schedules, and in extreme circumstances, close their business for the day.

We respectfully ask that you do not advance this bill. We look forward to contributing positively to the development of sound public policy and continuing to serve as a resource to the legislature on matters related to labor and employment laws.

Thank you for this opportunity to provide testimony.

Dailyn Yanagida
Legislative Affairs Committee Co-Chair

Rosanne M. Nolan
Legislative Affairs Committee Co-Chair





LATE

WRITTEN TESTIMONY ONLY

January 30, 2023

The Honorable Senator Sharon Y. Moriwaki, Chair
The Honorable Senator Chris Lee, Vice Chair
Senate Committee on Labor and Technology

RE: Senate Bill 42 – RELATING TO FAIR SCHEDULING
Hearing date: January 30, 2023, 3:00 p.m.

Aloha Chair Moriwaki, Vice Chair Lee, and Members of the Senate Committee on Labor and Technology:

Thank you for allowing me to submit testimony on behalf of Young Brothers, LLC (“YB”) offering its **OPPOSITION** for Senate Bill 42 – Relating to Fair Scheduling.

YB is a common carrier by water, transporting property by tug and barge between the islands of Oahu, Hawaii, Kauai, Maui, Molokai, and Lanai. YB is currently the only water common carrier authorized to transport property under Chapter 271G, Hawaii Revised Statutes (“HRS”) (i.e., the Hawaii Water Carrier Act), subject to the regulatory authority of the Public Utilities Commission of the State of Hawaii (“PUC”). Since 1900, customers across Hawaii have relied on YB’s frequent, regular, and universal sailings to serve as the bridge that connects all communities in this island-state.

This measure would, among other things, require employers to pay double-time wages if employees are not provided with at least ten days’ written notice of their shift schedules unless covered by a collective bargaining agreement.

While most of YB’s employees are either employed under collective bargaining agreements or are otherwise provided with written notice of their schedules, there are instances in which last minute schedule changes are required. For example, severe weather or unforeseen staff medical emergencies could cause last minute changes in schedules. This measure would require the payment of double wages in such situations and create additional administrative cost and burden to manage. Accordingly, it could slow the delivery and increase the cost of goods to the residents of our State.

For the reasons stated above, YB offers its **OPPOSITION** for this measure. Thank you for your service to the State of Hawaii, and for the opportunity to testify offering comments on this measure.

Sincerely,

Kris Nakagawa
Vice President, External and Legal Affairs



Airlines for America®

We Connect the World

January 30, 2023

Senator Sharon Y. Moriwaki, Chair
Senator Chris Lee, Vice Chair
Committee on Labor and Technology
State Capitol
Honolulu, HI 96813

Dear Senator Moriwaki and Senator Lee:

Airlines for America (A4A)¹ is the trade association of the leading U.S. passenger and cargo airlines, many of which serve airports in Hawai'i providing safe, affordable services to Hawai'i residents and businesses. U.S. airlines are proud economic drivers in Hawai'i, and we value the relationship we have with the state, as well as the customers we serve each year.

Due to the unique nature of the airline business, application of SB 42 to airlines and airline service providers may have negative unintended consequences for passengers, shippers and the Hawai'i economy, including widespread operational disruptions and increased costs. In fact, to our knowledge, no jurisdiction included airlines and service providers in their final, enacted predictive scheduling legislation because of the devastating impact that such a proposal could have on air travel. Due to weather and countless other variables, the Federal Aviation Administration (FAA) routinely changes the daily schedules of hundreds of flights, which in turn requires airlines to alter the work schedules of thousands of employees. This is why the proposal could have a devastating impact to airline operations and for passengers trying to connect to their final destinations.

Although airlines construct their proposed flight schedules, the FAA controls their operational schedules, making it impossible to require seven days advance notice of work schedules. A mechanical issue in Los Angeles and a crew timeout in Dallas are just a few of the myriad of possible scenarios outside of Hawai'i, which could necessitate an airline employee to stay beyond their originally scheduled shift.

For both safety and customer needs, flight crews must work until their plane lands, which may require additional hours. Similarly, ground crews need to be present to unload the

¹ The members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air Worldwide Holdings, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

plane, open the doors and disembark the passengers, including disabled customers. Unlike other industry employees, airline ground employees perform jobs that are not always conducive to the rigidity contemplated in these bills. For example, if a gate agent were allowed to leave their job during a later-than-expected boarding process, the airline would have no choice but to close the boarding doors and delay the flight while the airline found a replacement gate agent to restart the process. Likewise, if a mechanic were in the middle of repairing or replacing an aircraft component and decided to leave because their shift ended, the airline would have to delay the departure or cancel the flight until it could find a different mechanic to perform the required maintenance. Any such delays potentially risk flight crews “timing out” due to strict federal flight and duty time rules which govern flight crew schedules.

The disruption that such a change could cause to airline operations – and therefore to passengers – cannot be overstated. If these bills were applied to airlines and airline service providers, it would be extremely difficult or impossible to run a reliable operation, leading to additional departure delays, cancellations and unnecessary time passengers must spend waiting for checked luggage. Such delays would not just impact passengers departing from Hawai’i but also, due to the interstate and international nature of all passenger airline operations, create downline ripple effects across the airline’s network and therefore impact passengers flying into Hawai’i as well.

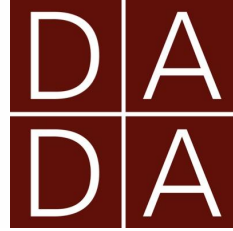
Overall, A4A urges that you limit the definition of covered employers to ensure that airlines and other related industries are not subject to the law.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S Williams', is positioned above the typed name.

Sean Williams
Vice-President, State and Local Government Affairs
swilliams@airlines.org



January 30, 2023

To: Senator Sharon Y. Moriwaki, Labor & Technology Committee Chair
Senator Chris Lee, Vice Chair
Members of the Committee on Labor and Technology

From: Ave Kwok, Jade Dynasty & Dada Spa, Salon & Café; Incoming Chair of
HRA

Subject: Bill SB42 RELATING TO FAIR SCHEDULING

A handwritten signature in black ink, appearing to be "Ave Kwok", is centered below the subject line.

Jade Dynasty and Dada strongly oppose SB42.

We have 220 employees for whom we provide weekly work schedules accessible on weekly basis.

20% of our employees are full-timers. The rest are part-time employees. It is easy to deal with full-timers with an informed schedule. Most of the part-timers, however, are mostly students, who have schedules on the weekly basis. Our management went out of its way to accommodate the schedule due to their schooling, which we have no control over. And, the management got punished for that if we fail to inform their 10 days unknown schedules? The logic does not work.

Requiring the employer to pay the employee two times the employee's regular rate of pay when the employee is not provided the above 10 calendar days provision doesn't work in my talking to businesses in Seattle and New York and should not be considered. In situations where someone called in sick, the employer whether in general retail or in a restaurant situation, the double time penalty discourages the employer to bring anyone in to cover the sick employee's shift because of the high costs. The net result is that someone that is willing to work and wants more hours will not be called in. Here we have a lose /lose situation confirmed to me by my counterparts in those areas with these provisions.

We are technically still in the pandemic and recession. We need rules that boost our sales so we can take care of our people. SB42 will absolutely add more cost to the employers and may not even benefit the employees. It is a lost situation for all parties.