
A BILL FOR AN ACT

RELATING TO DISCRIMINATION.

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

1 SECTION 1. The legislature finds that Hawaii prohibits
2 discrimination based on individual characteristics in
3 employment; housing; public accommodations; and access to
4 services that receive state financial assistance, including but
5 not limited to educational programs and activities.

6 The legislature recognizes that the discrimination faced by
7 an individual is often multifaceted and is not necessarily
8 founded on a single characteristic or basis. Per the 2020 U.S.
9 Census, Hawaii is the most diverse state in the nation with
10 immigrants consisting of about twenty per cent of the
11 population. The legislature further finds that discrimination
12 can be based on a person's immigration status, such as being a
13 naturalized citizen, legal permanent resident, H-1B visa holder,
14 and Deferred Action for Childhood Arrival or DACA recipient.

15 The purpose of this Act is to prohibit discrimination based
16 on a person's immigration status.



SECTION 2. Section 368-1, Hawaii Revised Statutes, is amended to read as follows:

"§368-1 Purpose and intent. (a) The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, including gender identity or expression, sexual orientation, marital status, national origin, place of birth, ancestry, immigration status, or disability in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy. ~~[It is the purpose of this chapter to provide a mechanism that provides for a uniform procedure for the enforcement of the State's discrimination laws. It is the legislature's intent to preserve all existing rights and remedies under such laws.]~~

(b) The verification of immigration status under subsection (a) and any discrimination based upon verified immigration status, where required by federal law, shall not constitute a violation of this section."

SECTION 3. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:



1 **"§378-2 Discriminatory practices made unlawful; offenses**

2 **defined.** (a) It shall be an unlawful discriminatory practice:

3 (1) Because of race, sex including gender identity or
4 expression, sexual orientation, age, religion, color,
5 ancestry, disability, marital status, immigration
6 status, arrest and court record, reproductive health
7 decision, or domestic or sexual violence victim status
8 if the domestic or sexual violence victim provides
9 notice to the victim's employer of such status or the
10 employer has actual knowledge of such status:

11 (A) For any employer to refuse to hire or employ or
12 to bar or discharge from employment, or otherwise
13 to discriminate against any individual in
14 compensation or in the terms, conditions, or
15 privileges of employment;

16 (B) For any employment agency to fail or refuse to
17 refer for employment, or to classify or otherwise
18 to discriminate against, any individual;

19 (C) For any employer or employment agency to print,
20 circulate, or cause to be printed or circulated
21 any statement, advertisement, or publication or



1 to use any form of application for employment or
2 to make any inquiry in connection with
3 prospective employment, that expresses, directly
4 or indirectly, any limitation, specification, or
5 discrimination;

6 (D) For any labor organization to exclude or expel
7 from its membership any individual or to
8 discriminate in any way against any of its
9 members, employer, or employees; or

10 (E) For any employer or labor organization to refuse
11 to enter into an apprenticeship agreement as
12 defined in section 372-2; provided that no
13 apprentice shall be younger than sixteen years of
14 age;

15 (2) For any employer, labor organization, or employment
16 agency to discharge, expel, or otherwise discriminate
17 against any individual because the individual has
18 opposed any practice forbidden by this part or has
19 filed a complaint, testified, or assisted in any
20 proceeding respecting the discriminatory practices
21 prohibited under this part;



1 (3) For any person, whether an employer, employee, or not,
2 to aid, abet, incite, compel, or coerce the doing of
3 any of the discriminatory practices forbidden by this
4 part, or to attempt to do so;

5 (4) For any employer to violate the provisions of section
6 121-43 relating to nonforfeiture for absence by
7 members of the national guard;

8 (5) For any employer to refuse to hire or employ or to bar
9 or discharge from employment any individual because of
10 assignment of income for the purpose of satisfying the
11 individual's child support obligations as provided for
12 under section 571-52;

13 (6) For any employer, labor organization, or employment
14 agency to exclude or otherwise deny equal jobs or
15 benefits to a qualified individual because of the
16 known disability of an individual with whom the
17 qualified individual is known to have a relationship
18 or association;

19 (7) For any employer or labor organization to refuse to
20 hire or employ, bar or discharge from employment,
21 withhold pay from, demote, or penalize a lactating



1 employee because the employee breastfeeds or expresses
2 milk at the workplace. For purposes of this
3 paragraph, the term "breastfeeds" means the feeding of
4 a child directly from the breast;

5 (8) For any employer to refuse to hire or employ, bar or
6 discharge from employment, or otherwise to
7 discriminate against any individual in compensation or
8 in the terms, conditions, or privileges of employment
9 of any individual because of the individual's credit
10 history or credit report, unless the information in
11 the individual's credit history or credit report
12 directly relates to a bona fide occupational
13 qualification under section 378-3(2); or

14 (9) For any employer to discriminate against any
15 individual employed as a domestic, in compensation or
16 in terms, conditions, or privileges of employment
17 because of the individual's race, sex including gender
18 identity or expression, sexual orientation, age,
19 religion, color, ancestry, disability, marital status,
20 or reproductive health decision.

21 (b) For purposes of subsection (a) (1):



(1) An employer may verify that an employee is a victim of domestic or sexual violence by requesting that the employee provide:

(A) Certified or exemplified restraining orders, injunctions against harassment, and documents from criminal cases;

(B) Documentation from a victim services organization or domestic or sexual violence program, agency, or facility, including a shelter or safe house for victims of domestic or sexual violence; or

(C) Documentation from a medical professional, mental health care provider, attorney, advocate, social worker, or member of the clergy from whom the employee or the employee's minor child has sought assistance in relation to the domestic or sexual violence; [and]

(2) An employer may verify an employee's status as a domestic or sexual violence victim not more than once every six months following the date the employer:



1 (A) Was provided notice by the employee of the
2 employee's status as a domestic or sexual
3 violence victim;

4 (B) Has actual knowledge of the employee's status as
5 a domestic or sexual violence victim; or

6 (C) Received verification that the employee is a
7 domestic or sexual violence victim;

8 provided that where the employee provides verification
9 in the form of a protective order related to the
10 domestic or sexual violence with an expiration date,
11 the employer may not request any further form of
12 verification of the employee's status as a domestic or
13 sexual violence victim until the date of the
14 expiration or any extensions of the protective order,
15 whichever is later[-]; and

16 (3) An employer may verify an employee's immigration
17 status; provided that any discrimination based on
18 verified immigration status, where required by federal
19 law, shall not constitute a violation of this
20 section."



SECTION 4. Section 489-3, Hawaii Revised Statutes, is amended to read as follows:

"§489-3 Discriminatory practices prohibition. Unfair discriminatory practices that deny, or attempt to deny, a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of race; sex, including gender identity or expression; sexual orientation; color; religion; ancestry; ~~[or]~~ disability, including the use of a service animal~~[s]~~; or immigration status, are prohibited."

SECTION 5. Section 515-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesperson, because of race; sex, including gender identity or expression; sexual orientation; color; religion; marital status; familial status; ancestry; disability; age; ~~[or]~~ human immunodeficiency virus infection~~[s]~~; or immigration status:

(1) To refuse to engage in a real estate transaction with a person;



- 1 (2) To discriminate against a person in the terms,
2 conditions, or privileges of a real estate transaction
3 or in the furnishing of facilities or services in
4 connection with a real estate transaction;
- 5 (3) To refuse to receive or to fail to transmit a bona
6 fide offer to engage in a real estate transaction from
7 a person;
- 8 (4) To refuse to negotiate for a real estate transaction
9 with a person;
- 10 (5) To represent to a person that real property is not
11 available for inspection, sale, rental, or lease when
12 in fact it is available; fail to bring a property
13 listing to the person's attention; refuse to permit
14 the person to inspect real property; or steer a person
15 seeking to engage in a real estate transaction;
- 16 (6) To offer, solicit, accept, use, or retain a listing of
17 real property with the understanding that a person may
18 be discriminated against in a real estate transaction
19 or in the furnishing of facilities or services in
20 connection with a real estate transaction;



1 (7) To solicit or require as a condition of engaging in a
2 real estate transaction that the buyer, renter, or
3 lessee be tested for human immunodeficiency virus
4 infection, the causative agent of acquired
5 immunodeficiency syndrome;

6 (8) To refuse to permit, at the expense of a person with a
7 disability, reasonable modifications to existing
8 premises occupied or to be occupied by the person if
9 modifications may be necessary to afford the person
10 full enjoyment of the premises; provided that a real
11 estate broker or salesperson, where it is reasonable
12 to do so, may condition permission for a modification
13 on the person agreeing to restore the interior of the
14 premises to the condition that existed before the
15 modification, reasonable wear and tear excepted;

16 (9) To refuse to make reasonable accommodations in rules,
17 policies, practices, or services, when the
18 accommodations may be necessary to afford a person
19 with a disability equal opportunity to use and enjoy a
20 housing accommodation; provided that if reasonable
21 accommodations include the use of an assistance



1 animal, reasonable restrictions may be imposed;
2 provided further that if the disability is not readily
3 apparent, an owner or other person engaging in a real
4 estate transaction may request information that
5 verifies that the person has a disability, defined as
6 a physical or mental impairment that substantially
7 limits a major life activity. An owner or other
8 person engaging in a real estate transaction shall not
9 request medical records or access to health care
10 providers, and shall not inquire as to the diagnosis,
11 nature, or severity of the person's disability. If
12 the disability-related need for an assistance animal
13 is not readily apparent, an owner or other person
14 engaging in a real estate transaction may request
15 verification that the assistance animal is needed to
16 alleviate one or more symptoms of the person's
17 disability. Verification may be provided by a letter
18 or other communication from the person's treating
19 health care professional, mental health professional,
20 or social worker. Possession of a vest or other
21 distinguishing animal garment, tag, or registration



1 documents that are commonly purchased online and
2 purporting to identify an animal as a service animal
3 or assistance animal shall not constitute valid
4 verification;

5 (10) In connection with the design and construction of
6 covered multifamily housing accommodations for first
7 occupancy after March 13, 1991, to fail to design and
8 construct housing accommodations in such a manner
9 that:

10 (A) The housing accommodations have at least one
11 accessible entrance, unless it is impractical to
12 do so because of the terrain or unusual
13 characteristics of the site; and

14 (B) With respect to housing accommodations with an
15 accessible building entrance:

16 (i) The public use and common use portions of
17 the housing accommodations are accessible to
18 and usable by persons with disabilities;

19 (ii) Doors allow passage by persons in
20 wheelchairs; and



1 (iii) All premises within covered multifamily
2 housing accommodations contain an accessible
3 route into and through the housing
4 accommodations; light switches, electrical
5 outlets, thermostats, and other
6 environmental controls are in accessible
7 locations; reinforcements in the bathroom
8 walls allow installation of grab bars; and
9 kitchens and bathrooms are accessible by
10 wheelchair; or

11 (11) To discriminate against or deny a person access to or
12 membership or participation in any multiple listing
13 service, real estate broker's organization, or other
14 service, organization, or facility involved either
15 directly or indirectly in real estate transactions, or
16 to discriminate against any person in the terms or
17 conditions of access, membership, or participation[-];
18 provided that verification of immigration status and any
19 discrimination based upon verified immigration status where
20 required by federal law shall not constitute a discriminatory
21 practice under this section."



1 SECTION 6. 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 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval.
7

INTRODUCED BY:

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H.B. NO. 2541

Report Title:

Anti-discrimination; Prohibitions; Immigration Status

Description:

Prohibits discrimination based on a person's immigration status.

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