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# A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS.

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

1           SECTION 1. The legislature finds that the information age  
2 is changing how providers of public accommodations and public  
3 services communicate with their customers. Many service  
4 providers use websites, software applications, and other  
5 technologies to take reservations, display menus, take orders,  
6 make sales, and provide product information.

7           The legislature recognizes that ready access to, and the  
8 ability to use, information and communication technology is  
9 essential to allow all citizens to fully engage with and enjoy  
10 public goods, services, facilities, privileges, advantages, and  
11 accommodations. However, the legislature is aware that some  
12 websites and applications used by public accommodation providers  
13 in the State are not accessible to persons with disabilities,  
14 denying them full and equal access.

15           The legislature also recognizes that existing federal and  
16 state laws that prohibit discrimination in public accommodations  
17 based on disability could better inform providers of public



1 accommodations and benefit persons with disabilities by  
2 clarifying requirements for electronic access.

3 The legislature further finds that the technical standards,  
4 definitions, compliance schedules, and enforcement procedures  
5 necessary to implement digital accessibility requirements are  
6 regulatory in nature. These matters are best addressed through  
7 administrative rulemaking, which allows for public participation  
8 by persons with disabilities, businesses of all sizes, and other  
9 interested parties, and allows for updating as technology  
10 evolves.

11 The legislature additionally finds that the Hawaii civil  
12 rights commission has existing statutory authority to define,  
13 implement, and enforce the prohibition against discriminatory  
14 practices by places of public accommodation, and that this  
15 authority extends to discriminatory practices carried out  
16 through information and communication technology. Explicit  
17 rulemaking authority will confirm and give effect to that  
18 authority and provide clear, workable guidance to the disability  
19 community and business community.

20 The legislature notes that a working draft of proposed  
21 rules has been prepared for consideration by the Hawaii civil



1 rights commission. That draft, which is adapted from the United  
2 States Department of Justice Title II web accessibility final  
3 rule issued April 24, 2024, addresses definitions, technical  
4 accessibility standards, phased compliance schedules,  
5 exceptions, equivalent facilitation, undue burden procedures,  
6 and enforcement, including a private right of action. The  
7 legislature intends that the commission use that draft, or a  
8 substantially similar document, as the working document for its  
9 rulemaking proceeding.

10 Accordingly, the purpose of this Act is to:

- 11 (1) Direct the Hawaii civil rights commission to adopt  
12 rules implementing the prohibition against  
13 inaccessible information and communication technology,  
14 consistent with the United States Department of  
15 Justice Title II web accessibility framework; and
- 16 (2) Confirm that it is an unlawful discriminatory practice  
17 for a place of public accommodation to deny a person  
18 with a disability full and equal enjoyment of the  
19 goods, services, facilities, privileges, advantages,  
20 or accommodations of a place of public accommodation,  
21 or information related thereto, by requiring the use



1 of information and communication technology that is  
2 not accessible to the person with a disability.

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

6 "§489- Digital accessibility; rulemaking. (a) The  
7 civil rights commission shall adopt rules pursuant to chapter 91  
8 to implement the prohibition established in section 489-5(c).

9 (b) The rules adopted pursuant to this section shall be  
10 consistent with the web accessibility framework established by  
11 the United States Department of Justice in its Title II final  
12 rule on web accessibility, title 28 Code of Federal Regulations  
13 part 35, as in effect on June 24, 2024.

14 (c) A violation of rules adopted pursuant to this section  
15 shall constitute an unlawful discriminatory practice under this  
16 chapter, subject to all remedies available under this chapter.  
17 The civil rights commission shall process complaints alleging  
18 such violations pursuant to its authority under this chapter and  
19 its procedural rules under chapter 368."

20 SECTION 3. Section 489-5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "**§489-5 Other discriminatory practices.** (a) It [~~is~~]  
2 shall be a discriminatory practice for two or more persons to  
3 conspire[+] to:

4           (1) [~~To retaliate~~] Retaliate or discriminate against a  
5 person because the person has opposed an unfair  
6 discriminatory practice;

7           (2) [~~To aid,~~] Aid, abet, incite, or coerce a person to  
8 engage in a discriminatory practice; or

9           (3) Wilfully[~~,-to~~] obstruct[~~,-~~] or prevent[~~,-~~] a person from  
10 complying with this chapter.

11           (b) It [~~is~~] shall be a discriminatory practice to deny a  
12 person the full and equal enjoyment of the goods, services,  
13 facilities, privileges, advantages, and accommodations of a  
14 place of public [~~accommodations~~] accommodation because of the  
15 known disability of an individual with whom the person is known  
16 to have a relationship or association.

17           (c) It shall be a discriminatory practice to deny a person  
18 with a disability full and equal enjoyment of the goods,  
19 services, facilities, privileges, advantages, or accommodations  
20 of a place of public accommodation, or information related to  
21 the goods, services, facilities, privileges, advantages, or



1 accommodations, by requiring the use of information and  
2 communication technology that is not accessible to the person."

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

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

8 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

Hawaii Civil Rights Commission; Discrimination in Public Accommodations; Persons with Disabilities; Discriminatory Practices; Rulemaking; Digital Accessibility

**Description:**

Requires the Hawaii Civil Rights Commission to adopt rules on digital accessibility for places of public accommodations that are consistent with certain federal regulations. Specifies that a violation of the rules is an unlawful discriminatory practice. Establishes it as an unlawful discriminatory practice for a place of public accommodation to deny a person with a disability full and equal enjoyment of their goods, services, facilities, privileges, advantages, or accommodations, or information related thereto, by requiring the use of information and communication technology that is not accessible to the person with a disability. Effective 7/1/3000. (HD2)

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