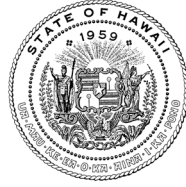


JOSH GREEN, M.D.
GOVERNOR

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 28, 2026

To: The Honorable Brandon J.C. Elefante, Chair,
The Honorable Rachele Lamosao, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Wednesday, January 28, 2026
Time: 3:00 p.m.
Place: Conference Room 225, State Capitol

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

AMENDED TESTIMONY

Re: S.B. 2017 RELATING TO HEALTHY WORKPLACES

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR opposes** this measure that amends Chapter 378, Hawaii Revised Statutes (HRS), Employment Practices Law, by:

- Adding a new part known as the Healthy Workplace Act,
- Seeking to protect workers from abusive conduct in the workplace,
- Establishing a private cause of action that must be filed within three years of the last alleged violation and allows courts to order remedies through judgment.

II. CURRENT LAW

§386-5 of the Workers' Compensation Law is the sole remedy for employees injured by accident arising out of and in the course of employment. Employees generally cannot sue their employer in civil court for damages related to workplace injuries covered by workers' compensation.

III. COMMENTS ON THE SENATE BILL

This measure seeks to protect workers from abusive conduct in the workplace by creating a private cause of action. While the intent of the bill is commendable, it creates a direct conflict with existing law, Chapter 386, Hawaii's Workers' Compensation Law, particularly §386-5, HRS, Exclusivity. This provision generally bars employees from suing their employer in civil court for damages related to workplace injuries, except in very limited circumstances (sexual harassment or

assault **AND** inflection of emotional distress or invasion of privacy).

By introducing a private cause of action with remedies including injunctive relief, compensatory damages, and punitive damages, this measure undermines the exclusivity principle in §386-5 and exposes employers to dual exposure: a workers' compensation claim for stress-related injury and a civil lawsuit for abusive conduct.

Equal Opportunity Employer/Program

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TDD/TTY Dial 711 then ask for (808) 586-8842.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 2017, RELATING TO HEALTHY WORKPLACES.

BEFORE THE:

SENATE COMMITTEE ON LABOR AND TECHNOLOGY

DATE: Wednesday, January 28, 2026 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Raquelle A. Pendleton, Deputy Attorney General, or
Gary Kam, Deputy Attorney General

Chair Elefante and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

This bill: (1) adds a new part to chapter 378, Hawaii Revised Statutes (HRS), (2) prohibits any employer or employee from subjecting an employee to abusive conduct and requires employers and management employees to take all reasonable preventative and responsive measures to ensure a safe work environment free of abusive conduct, (3) prohibits employers and management employees from taking retaliatory actions against employees who allege a violation of the law or exercise a right established in this bill, (4) establishes a penalty, a private right of action in the circuit courts, and remedies for violations of the bill, and (5) requires the Department of Labor and Industrial Relations (DLIR) to adopt rules to implement the bill.

We recommend deleting sections 378-D and 378-E, page 7 line 1, to page 10, line 6, which create a private cause of action and remedies to be ordered by the court, including compensatory and punitive damages. This bill acknowledges that the claims covered under it are already covered under Hawaii's Workers' Compensation Laws, chapter 386, HRS, as it cites to "increased medical and workers' compensation claims" due to "abusive work environments" on page 1, lines 8 to 12. Pursuant to section 386-5, HRS, however, chapter 386 is the exclusive remedy, with limited exceptions, for

workplace injuries. The reason that workers' compensation laws are the exclusive remedy is because they "represent a socially enforced bargain: the employee giving up his right to recover common law damages from the employer in exchange for the certainty of a statutory award for all work-connected injuries." Van Ness v. State, Dept. of Educ., 131 Hawai'i 545, 558, 319 P.3d 464, 477 (2014), as corrected (Feb. 4, 2014). As this bill creates a private cause of action for employees injured by abusive conduct at work against employers, a workers' compensation injury, it is contrary to the exclusive remedy provisions of chapter 386, HRS.

In addition, this bill will lead to increased litigation requiring significant additional resources for employees and employers including the State and greatly expanded potential liability. For these reasons, we recommend deleting sections 378-D and 378-E, page 7, line 1, to page 10, line 6.

We respectfully request the Committee consider our comments. Thank you for the opportunity to testify.



**Senate Labor and Technology Committee
January 28, 2026, at 3:00 P.M.**

RE: SB 2017, Relating to Healthy Workplaces

Aloha Chair Elefante, Vice Chair Lamasao, and members of the Committee:

Society of Human Resource Management – Hawaii (“SHRM”) respectfully opposes SB 2017, relating to healthy workplaces:

Thank you for the opportunity to provide testimony on SB 2017, relating to healthy workplaces. As the Hawaii affiliate of the Society for Human Resource Management (SHRM), we are committed to fostering safe, respectful, and productive workplaces. We appreciate the intent behind this bill to address abusive conduct and prevent workplace bullying. However, we respectfully are in opposition to this version as we seek to ensure the legislation is both effective and practical for Hawaii’s employers and employees.

SHRM Hawaii supports efforts to eliminate abusive conduct in the workplace. Research shows that workplace bullying impacts up to 30% of employees nationally, leading to decreased productivity, higher absenteeism, and increased turnover. According to the Workplace Bullying Institute, bullied employees are 70% more likely to leave their jobs, costing employers an estimated \$22,500 per turnover event. We recognize the need for clear standards and proactive measures to address this issue.

We are concerned, however, that the bill’s definitions of “abusive conduct” and “reasonable preventative measures” are broad and may create uncertainty for employers in implementation. Without clear guidance, well-intentioned employers may struggle to comply, and the risk of frivolous litigation could increase. National data indicate that states with similar private rights of action have seen a 15-20% increase in employment-related claims, which can disproportionately impact small and mid-sized businesses.

Additionally, the bill requires employers to take “all reasonable preventative and responsive measures” but does not specify what constitutes compliance. SHRM Hawaii recommends that the Department of Labor and Industrial Relations, in adopting rules, provide detailed examples and model policies to guide employers. We also urge consideration of a phased implementation timeline and training resources, particularly for small businesses that may lack dedicated HR staff.

While we support prohibitions on retaliation and the establishment of remedies for employees, we encourage the legislature to consider alternative dispute resolution mechanisms prior to litigation. Mediation or administrative review could resolve disputes more efficiently and preserve workplace relationships.



Page Two

Under this version of the bill, union activity in which co-workers ostracize, exclude, bully, call names, exclude, tease, and isolate in order to push collective bargaining goals would be exempt from liability, but an *employer* (with no administrative agency review/ investigation) would be exposed to liability when co-workers utilize similar social pressure tactics in support of production, efficiency, or other goals that may benefit the employer, regardless of whether the employer initiates or encourages the same.

When co-workers elect to utilize peer pressure on each other to keep up with production goals and demands or try to ensure that everyone shares the load equally, sometimes they utilize positive peer pressure and sometimes they resort to negative peer pressure. Name calling or other related behaviors, while not entirely professional or well thought out, are not currently illegal. Without more guidelines and specific definitions in place, these kinds of scenarios under the proposed law would require employers to launch and pay for formal independent investigations and the be potentially subject to retaliation claims when the employee refuses to improve performance and the peer pressure continues or escalates.

Employees regularly resort to this kind of self-help in order to ensure fairness and protect their own workload distributions, often without employer initiation or direction. The reasonable person standard invoked does little to help determine when negative peer pressure crosses a line and should be legally actionable. While petty slights and offenses are clearly not actionable, at what point are co-workers precluded from calling an employee selfish, lazy, not a team player, and/or not worth socializing with when they refuse to meet co-worker productivity and cooperation expectations? Meanwhile, employees and co-workers who wish to employ the same tactics for the purpose of advancing union support and participation, the behavior is exempt and not actionable. Thus, the concerted collective activity is illegal in one direction and exempted in the other. Likely a violation of the National Labor Relations Act. Importantly, we note that physical abuse and harassment are already impermissible in the workplace. Thus, the bill as drafted duplicates and complicates existing safeguards.

In summary, SHRM Hawaii supports the goal of preventing abusive conduct but respectfully requests clarification and guidance to ensure the bill's provisions are workable for all employers. We look forward to collaborating with the legislature and the Department of Labor and Industrial Relations to promote healthy, respectful, and productive workplaces across Hawaii.

We seek to serve as a resource to legislators regarding this and other matters pertaining the human resource management. SHRM Hawaii represents nearly 600 members and employers statewide. Human resource management is a critical component to the success of the many businesses that make up our local economy. If you have any questions or concerns, we are available for comment at your convenience. Mahalo for the opportunity to provide testimony,

Erin Kogen, Co-Chair
Maggie Batangan, Co-Chair
SHRM Legislative Affairs Committee



SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840

SB-2017

Submitted on: 1/27/2026 1:55:18 PM

Testimony for LBT on 1/28/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Austin Martin	Testifying for Libertarian Party of Hawaii	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Lee, Vice Chair Fevella, and committee members. I am Austin Martin, Chair of the Libertarian Party of Hawaii, testifying in opposition to SB 2017 (Workplace Conduct).

SB 2017 imposes state-mandated workplace conduct standards on private employers, overriding voluntary contracts and freedom of association. This is yet another unconstitutional overreach which will further impoverish the Hawaiian economy, and criminalize freedom.

Private parties negotiate terms best without government dictation. I recommend defeating this measure to preserve employment freedom, and to stop rewarding the insane socialist parasites who suggest this kind of policy.

Mahalo for recognizing the asininity of this proposal.

Austin Martin

Libertarian Party

SB-2017

Submitted on: 1/27/2026 8:39:09 AM

Testimony for LBT on 1/28/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Letha DeCaires	Individual	Oppose	Written Testimony Only

Comments:

My name is Letha Sundquist DeCaires. I retired in good standing as a captain with the Honolulu Police Department. I spent half my career as a detective and hostage negotiator, conducting thousands of investigations. I am a licensed private investigator hired routinely to conduct work place investigations into employee conduct. I am a civil rights director for public transportation and I conduct hundreds of investigation and audit reviews into employee conduct a year.

I believe in healthy and respectful workplaces and agree that harmful workplace conduct that is not tied to protected class status causes real harm to employees and operational effectiveness, but **I OPPOSE Senate Bill No. 2017 Relating to Healthy Workplaces** because although well intentioned, it relies heavily on perception and totality of circumstances and lacks concrete examples of exclusions beyond petty slights. There are risks that this would be inconsistent applied, increased issues over routine supervisor responsibilities and difficulty distinguishing legitimate performance management.

I am not an attorney, and never wanted to be, but I also believe that there are potential conflicts with grievances and processes within collective bargaining. It also prohibits mediation without counsel. This limits early, informal resolution, and increases adversarial attitudes. It builds walls when we are trying to build bridges. It encourages litigation in a world that needs less court battles and more communication, skill and team building.

Please consider clarifying exclusions for legitimate management actions—explicitly exclude good faith performance management. Reduce damages where employers act promptly and appropriately. Encourage early resolution and allow voluntary mediation prior to counsel with employee consent. Require the state department of labor to provide model policies, training standards and investigative best practices to ensure consistency.

Thank you for this opportunity to testify.

Letha Sundquist DeCaires

1.27.26

LATE

Aloha, my name is Debra Bringman, and I am in support of this bill.

This is a growing issue, and leaders or perpetrators are being allowed to remain in the workplace, exposing more employees to psychological harm. According to the job-seeker site Monster, their 2025 Mental Health in the Workplace survey of 1,100 participants reported that 80% of workers now consider their workplace toxic—up from 67% in 2024. iHire, a leading employment platform, revealed in their Toxic Workplace Trends Report 2025, based on 1,781 workers and 504 employers, that 75% worked for an employer whose workplace was considered toxic. When asked, “What makes/made that workplace toxic (select all that apply),” these responses justify this legislation:

- **79%:** Poor leadership/management (e.g., leadership is unethical, unaccountable, unsupportive)
- **68%:** Unfair treatment of employees (e.g., favoritism, discrimination, inequities)
- **60%:** Negative company culture (e.g., culture comprises gossip, fear, blame, lack of collaboration)
- **59%:** Conflict/hostility (e.g., bullying, harassment, arguments, poor conflict resolution mechanisms)

I am currently out on disability for precisely the reasons this bill seeks to address. Unfortunately, existing laws do not adequately protect employees in these situations, especially when the conduct does not fall neatly under discrimination. For that reason, the Hawai'i Civil Rights Commission (HCRC) declined to take my case. It is pending a hearing before the workers' compensation division (2-2025-338635).

The behaviors I experienced in the workplace included gossiping, spreading of rumors, isolation, exclusion from projects, delayed or withheld information, vague instructions with little or no support when I sought clarification, speaking on my behalf without my knowledge, and being required to jump through hoops for my events that my teammates were not asked to do for theirs (i.e., return on investment & business case). In addition, my pay was capped at a lower pay grade—two grades down—while additional responsibilities were added to my job description without additional compensation. This was reflected in my 2025 performance evaluation for the 2024 year, which included a comment under “Integrity” stating: **“Debbie truly cares about doing the right thing and integrity is clearly prioritized in her personal and professional values. I have seen tremendous growth in her emotional intelligence this year, specifically in the areas of positive communication and self-control. As we have discussed this year, she is learning that ‘right’ is not always black and white, and learning that navigating the gray is a necessary skill, especially in the world of HR.”** This comment stemmed from a discussion about a human resources non-compliance issue, which continues to be permitted by leadership.

Unfortunately, if you do not “play along to get along,” the environment becomes difficult to endure. In my case, it resulted in two emergency room visits over Mother’s Day weekend, when I believed I was having a heart attack or stroke. My hands were turning blue, my arms felt tight, and I experienced chest pain and anxiety. The Rheumatologist stated: **“As such, I do NOT suspect that she experienced a true Raynaud’s phenomenon, but I do suspect that she may have had a vasospastic event in the setting of stress.”**

Remarkably, when I began sharing my story with others, many shared their own experiences, validating that this is an ongoing issue and underscoring the need for this legislation. I respectfully ask that you review my workers' compensation case (2-2025-338635) first, then my HCRC claim filed on November 5, 2025, and consider whether a reasonable person would feel safe in such an environment. My hope is that legislation will be passed to deter bad behavior, protect workers, and ensure safe, healthy work environments for all employees.

Sources:

<https://www.inc.com/kit-eaton/its-not-just-you-this-survey-says-most-u-s-workplaces-are-toxic/91251078>

<https://www.ihire.com/resourcecenter/employer/pages/toxic-workplace-trends-report-2025>