

ACT 22

H. B. 210.

A Bill for an Act Relating to Unlawful Employment Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 90A, Revised Laws of Hawaii 1955 (1965 Supplement), is amended by adding thereto the following:

“PART III. UNLAWFUL SUSPENSION OR DISCHARGE

“Section 90A-30. Definitions. As used in this part:

“(a) ‘Director’ means the director of labor and industrial relations.

“(b) ‘Department’ means the department of labor and industrial relations.

“(c) ‘Employer’ includes any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual or the receiver, trustee, or successor of any of the same, employing any persons, but shall not include the State or any political subdivision thereof or the United States.

“(d) ‘Employee’ includes any person suffered or permitted to work.

“(e) ‘Wages’ means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission or other basis of calculation. It shall include the reasonable cost, as determined by the director under chapter 94, to the employer of furnishing an employee with board, lodging or other facilities if the board, lodging or other facilities are customarily furnished by the employer to his employees but shall not include tips or gratuities of any kind.

“(f) ‘Appeal board’ means the labor and industrial relations appeal board.

“**Section 90A-31. Unlawful suspension or discharge from employment.** It shall be unlawful for any employer to suspend or discharge any of his employees solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act.

“**Section 90A-32. Complaint against unlawful suspension or discharge.** (a) Any employee aggrieved by an alleged unlawful suspension or discharge may file with the department a complaint in writing, stating the name and address of the employer alleged to have committed the unlawful suspension or discharge, and shall set forth the particulars thereof and other information as may be required by the department.

“(b) No complaint shall be filed after the expiration of thirty days after the alleged act of unlawful suspension or discharge.

“**Section 90A-33. Proceeding and hearing on complaint.** (a) After the filing of any complaint, the department shall serve a copy of the complaint upon the employer charged. Service may be by delivery to the employer or by mail. The employer may file an answer to the complaint.

“(b) A hearing on the complaint shall be held by the department in conformance with chapter 6C.

“**Section 90A-34. Findings and order.** If the department finds, after a hearing, that an employer has unlawfully suspended or discharged an employee in violation of section 90A-31, the department may order the reinstatement of the employee with or without back pay or may order the payment of back pay without reinstatement.

“**Section 90A-35. Judicial review.** Any person aggrieved by the order of the department shall be entitled to judicial review as provided by section 6C-14.

“**Section 90A-36. Petition for enforcement of order.** If any employer fails or neglects to comply with the final order of the department from which no appeal has been taken as provided by this part, the department or the employee affected may petition the circuit court wherein the employer resides or transacts business for the enforcement of the order and for any other appropriate relief. Upon filing of the petition and the record of the proceedings, including all documents and papers on file in the matter,

the pleadings and testimony upon which the order was entered and the order, and upon service of proper notice thereof upon the employer, the circuit court shall have jurisdiction in the premises.

“Section 90A-37. Rules and regulations. The director shall adopt rules and regulations as he deems necessary for the purpose of carrying out the provisions of this part.”

SECTION 2. This Act shall take effect upon its approval.

(Approved April 24, 1967.)