

## ACT 10

H.B. NO. 605

A Bill for an Act Relating to Employment Practices.

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

SECTION 1. Section 378-32, Hawaii Revised Statutes, is amended to read as follows:

**“§378-32 Unlawful suspension, discharge, or discrimination.** It shall be unlawful for any employer to suspend, discharge, or discriminate against any of his employees:

- (1) 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; or
- (2) Solely because the employee has suffered a work injury which arose out of and in the course of his employment with the employer and which is compensable under chapter 386 unless the employee is no longer capable of performing his work as a result of the work injury and the employer has no other available work which the employee is capable of performing. Any employee who is discharged because of the work injury shall be given first preference of re-employment by the employer in any position which the employee is capable of performing and which becomes available after the discharge and during the period thereafter until the employee secures new employment. This paragraph shall not apply to any employer in whose employment there are less than three employees at the time of the work injury or who is a party to a collective bargaining agreement which prevents the continued employment or re-employment of the injured employee.”

SECTION 2. Section 378-33, Hawaii Revised Statutes, is amended to read as follows:

**“§378-33 Complaint against unlawful suspension, discharge, or discrimination.**

(a) Any employee aggrieved by an alleged unlawful suspension, discharge, or discrimination may file with the department of labor and industrial relations a complaint in writing, stating the name and address of the employer alleged to have committed the unlawful suspension, discharge, or discrimination, 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, discharge, or discrimination, except that an

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alleged act of unlawful discharge under section 378-32(2) occurring while the aggrieved employee is still physically or mentally incapacitated and unable to work shall be considered to have occurred on the date the aggrieved employee is able to return to work.”

SECTION 3. Section 378-35, Hawaii Revised Statutes, is amended to read as follows:

“**§378-35 Findings and order.** If the department of labor and industrial relations finds, after a hearing, that an employer has unlawfully suspended, discharged, or discriminated against an employee in violation of section 378-32, the department may order the reinstatement, or reinstatement to the prior position, as the case may be, of the employee with or without back pay or may order the payment of back pay without any such reinstatement.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

(Approved April 16, 1981.)

[Note. Act did not contain an effective date provision.]

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.