

**ACT 344**

H.B. NO. 133

A Bill for an Act Relating to Technical and Vocational Training.

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

SECTION 1. The legislature finds that public educational institutions, when attempting to expand work-based learning opportunities, are constrained by employers' concerns about liability for students in work sites. During the regular session of 1995, the legislature partially addressed this concern by enacting Act 231, Session Laws of Hawaii 1995. Hawaii and all other states are presently committed to a major educational reform movement that involves establishing statewide, comprehensive school-to-work transition systems. It is an enormous undertaking since it involves providing work-based learning opportunities for all students. Hawaii is expected to receive \$10,200,000 of federal assistance over a five-year period under the School-To-Work Opportunities Act, P.L. 103-239, to carry out this reform.

The legislature further finds that certain provisions of Act 231, Session Laws of Hawaii 1995, as amended by Act 89, Session Laws of Hawaii 1996, need to be clarified so that these provisions clearly refer to paid employment. It is only when students in work-based learning are paid that almost all federal and state labor laws, such as workers' compensation, are in force.

The purpose of this Act is to clarify the coverage of workers' compensation for students in work-based learning situations.

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SECTION 2. Section 302A-429, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-429]] Vocational student internship School-to-work work-based learning program authorized.** To provide students with opportunities to apply knowledge and skills acquired in the classroom to real life work experiences, the department may establish and regulate a program of [vocational student internship] school-to-work work-based learning under conditions determined by the department[.] and the University of Hawaii.”

SECTION 3. Section 302A-430, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-430]] Coverage for workers' compensation.** Whenever a student participating in [the department's vocational student internship] an approved school-to-work program sponsored by the department of education or the University of Hawaii undertakes to perform work for a private employer as part of the student's [internship] work-based learning program, whether paid or unpaid, the State shall be deemed to be the responsible employer for the purposes of workers' compensation coverage, which shall be the student's exclusive remedy to the same extent as provided for in chapter 386 as against the State and the private employer participating in the program.”

SECTION 4. Section 302A-431, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-431]] Rules[.]; reporting.** (a) The board and the board of regents of the University of Hawaii may adopt necessary rules under chapter 91 to administer and implement sections 302A-429 to 302A-431, including the adoption of safety guidelines and safety inspection procedures of facilities where students are placed. The department and the University of Hawaii shall inspect each facility annually prior to the placement of students with these facilities.

(b) The department and the University of Hawaii shall submit a biennial report to the governor and the legislature prior to the convening of each regular session in the first year of each biennium that identifies the cost impacts to the State of providing workers' compensation coverage for students under sections 302A-430 and 302A-440.”

SECTION 5. Section 302A-440, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-440]] Coverage for workers' compensation.** Whenever an exceptional child as defined in section 302A-101 undertakes to perform work for a private employer as part of [the child's instructional program,] an approved school-to-work work-based learning program, whether paid or unpaid, the State shall be deemed to be the responsible employer for the purposes of workers' compensation coverage.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved July 2, 1997.)