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# A BILL FOR AN ACT

RELATING TO DISCRIMINATORY PRACTICES.

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

1           SECTION 1. The legislature finds that the State of Hawaii  
2 has strong laws against discrimination in employment on the  
3 basis of disability, embodied in sections 378-1 and 378-2,  
4 Hawaii Revised Statutes, and rules adopted by the civil rights  
5 commission. In many respects, state law provides stronger  
6 protections than those provided under federal law prohibiting  
7 employment discrimination based on disability. The legislature  
8 recognizes that pursuant to *California Federal Sav. and Loan*  
9 *Ass'n v. Guerra*, 479 U.S. 272, 107 S.Ct. 683 (1987), federal law  
10 is a "floor" beneath which protections against discrimination  
11 should not drop, rather than a "ceiling" above which protections  
12 cannot rise under state anti-discrimination laws.

13           The legislature further finds that on September 25, 2008,  
14 President George W. Bush signed into law the ADA Amendments Act  
15 of 2008, P.L. 110-325 ("ADAAA"). In the ADAAA, Congress found  
16 that several United States Supreme Court decisions interpreted  
17 the definition of disability inconsistently with legislative



1 intent. The ADAAA clarified laws relating to employment  
2 disability, broadening the definition of disability and  
3 resulting in certain federal law protections that are stronger  
4 than corresponding protections currently provided under Hawaii  
5 state law.

6 The purpose of this Act is to require the Hawai'i civil  
7 rights commission to adopt administrative rules to define  
8 certain terms to conform state law protections against  
9 disability discrimination in employment to recently amended  
10 federal law.

11 SECTION 2. The Hawai'i civil rights commission, pursuant to  
12 its authority under section 368-3(9), Hawaii Revised Statutes,  
13 shall adopt rules to define or amend, as applicable, the  
14 following terms for purposes of chapter 378, Hawaii Revised  
15 Statutes: "major life activities"; "being regarded as having  
16 such an impairment"; "disability"; and "substantially limits".  
17 The Hawai'i civil rights commission may define such other terms  
18 as necessary to effectuate the purposes of chapter 378, Hawaii  
19 Revised Statutes, consistent with section 1 of this Act.

20 SECTION 3. The Hawai'i civil rights commission shall  
21 complete the rulemaking process for purposes of section 2 of  
22 this Act no later than December 31, 2010.



1 SECTION 4. Until the completion of the rulemaking under  
2 section 3 of this Act, the Hawai'i civil rights commission shall  
3 apply, at minimum, the definitions in the American with  
4 Disabilities Act Amendments Act of 2008 (ADAAA); provided that  
5 the definition of "disability" under section 378-1, Hawaii  
6 Revised Statutes, and the implementing administrative rules  
7 related thereto shall be construed at minimum to conform to the  
8 ADAAA.

9 SECTION 5. This Act shall take effect upon its approval.



S.B. NO. 1183  
S.D. 2  
H.D. 2  
C.D. 1

**Report Title:**

Employment; Discriminatory Practices; Disability

**Description:**

Requires the Hawaii civil rights commission to define in administrative rules certain definitions for purposes of discriminatory employment practices. (CD1)

