

July 13, 2018

2018 - Employment Bills after Veto Deadline

Employment Practices and Employee Rights

ACT 108
(07/05/18)
SB 2351 CD1

Pay Secrecy; Pay Transparency – When determining the salary, benefits, or other compensation for a job applicant, prohibits prospective employers from:

- inquiring about an applicant’s salary history, or
- relying on the applicant’s salary history.

However, allows for (1) discussion over the applicant’s *expectations* with respect to salary, benefits, and other compensation and (2) consideration and/or verification of an applicant’s salary history if the applicant voluntarily and without prompting discloses salary history. Also provides exceptions for individuals who apply for internal transfers or promotions with their current employer; background checks; and public employees who are covered by a collective bargaining agreement.

Finally, prohibits employers from retaliating or discriminating against an employee for disclosing the employee’s wages or discussing and inquiring about the wages of other employees, or aiding or encouraging other employees to exercise such rights. *Effective January 1, 2019.*

ACT 109
(07/05/18)
SB 2990 CD1

Paid Family Leave; Sunrise Analysis – Requires the legislative reference bureau to conduct and complete a sunrise analysis to assist the legislature in establishing a paid family leave program in Hawaii. The sunrise analysis shall consist of the following:

- comparative analysis of other states’ paid leave models, including temporary disability insurance;
- Hawaii-based cost breakdowns by model on projected impacts to employers by size, impacts to employees, and estimated impacts on the cost of compliance as it related to other employer mandates; and
- examination of options for compliance and enforcement of the proposed paid family leave program with recommendations for additional staffing and support for the Department of Labor and Industrial Relations (“DLIR”) to effectuate a program.

Provides that the analysis shall be submitted to the legislature no later than September 1, 2019. *Effective July 1, 2018.*

Workers’ Compensation (“WC”)

ACT 107
(07/05/18)
HB 1778 CD1

Controverted Claims; Firefighter Coverage for Cancer – In the case of a controverted WC claim, requires the private health care plan of an injured worker to pay for medical care, services, and supplies. When the claim is accepted or determined to be compensable, requires the employer to reimburse the private health care plan and injured worker.

For claims for cancer that are covered by Hawaii’s workers’ compensation law and involving firefighters with at least five years of service, provides that employers shall be liable for medical care, services, and supplies for a minimum of 110% and a maximum of 150% of fees prescribed in the Medicare Resource Based Relative Value Scale applicable to Hawaii. *Effective upon approval.*

ACT 188
(07/10/18)
HB 2377 SD1

Vocational Rehabilitation – Provides the following hierarchy of options for vocational rehabilitation training that is required to be in another occupational field:

- 1) on the job training;
- 2) training of less than 52 weeks; or
- 3) training of more than 52 weeks.

Further provides that if the first three options are not feasible, self-employment may be considered. *Effective upon approval.*

ACT 155
(07/09/18)
SB 2244 CD1

Opioid Therapy; Prescription Limits – Requires health care providers in the workers’ compensation system who are authorized to prescribe opioids to adopt and maintain policies for informed consent to opioid therapy in situations with a higher risk of dependency. Requires DLIR to make available template developed by the Department of Health (“DOH”). Establishes a seven-day limit for concurrent opioid and benzodiazepine prescriptions, unless an exception applies. *Effective upon approval.*

Temporary Disability Insurance (“TDI”)

ACT 162
(07/10/18)
HB 2375 SD1

TDI; Certification by APRN; Penalties; Notices; Hearings – Adds advanced practice registered nurses (“APRN”) to the list of healthcare professionals who can certify an employee’s disability for purposes of Hawaii TDI law. Increases the penalty an employer is assessed for failing to submit timely wage and employment information from \$10 to \$250. Permits filing of an appeal of a decision related to temporary disability insurance at the various offices of the DLIR throughout the State. Allows the department to send notices of hearing electronically or by first class mail. Allows the parties to a hearing to appear in person, via telephone, or by other communication devices approved by the DLIR. Provides that if any party fails to appear at the hearing, the referee shall issue a decision based on the available information. *Effective upon approval.*

Healthcare and Health Insurance; Prescription Drugs

ACT 151
(07/09/18)
HB 1602 CD1

Opioid; Warning Label – Requires the inclusion of a label warning of the risks of addiction and overdose on the packaging of any opioid drug dispensed by a health care professional or pharmacist. Specifically states that the warning shall read: “Caution: Opioid. Risk of overdose and addiction.” Requires a health care professional or pharmacist to also include the warning in an acknowledgment signed by the patient or person receiving the opioid drug for the patient. *Effective upon approval.*

ACT 197
(07/10/18)
HB 2145 CD1

Mental Health Coverage – Allows the synchronization of plan participants’ medications. Requires plans, policies, contracts, or agreements that are offered by health insurers, mutual benefit societies, and health maintenance organizations and provide prescription drug benefits, to apply prorated daily cost-sharing rates for prescriptions dispensed by network pharmacies for less than a thirty-day supply. *Effective July 1, 2018.*

ACT 199
(07/10/18)
HB 2208 CD1 **Association Health Plans** – Requires association health plan policies to comply with the laws of this State regardless of the association's domicile. Enables certain voluntary associations, including employer associations that issue association health plans, to qualify for authorization to transact insurance in the State. *Effective January 1, 2019.*

ACT 154
(07/09/18)
SB 2247 CD1 **Opioid Antagonists; Prescriptions** – Authorizes pharmacists to prescribe, dispense, and provide related education on opioid antagonists to individuals at risk of opioid overdose and to family members and caregivers of individuals at risk of opioid overdose without the need for a written, approved collaborative agreement; subject to certain conditions. *Effective July 1, 2018.*

ACT 111
(07/05/18)
SB 2340 CD1 **Health Insurance; Extended Coverage; Preexisting Conditions; Nondiscrimination** – Ensures certain benefits under the federal Affordable Care Act are preserved under Hawaii law, including: extending dependent coverage for adult children up to 26 years of age; prohibiting health insurance entities from imposing a preexisting condition exclusion; and prohibiting health insurance entities from using an individual's gender to determine premiums or contributions. *Effective upon approval.*

Medical Marijuana

ACT 161
(07/10/18)
SB 2488 CD1 **Medical Cannabis; Insurance Reimbursement Working Group** – Establishes the Medical Cannabis Insurance Reimbursement Working Group to address the complexities surrounding the topic of making medical cannabis reimbursable by health insurance. Issues to be addressed include: actions taken in other states, reimbursement models, liability for health plans, impact on insurance premiums, insurance riders for alternative therapies, and other relevant issues. *Effective upon approval.*

Public Employees

ACT 007
(04/24/18)
HB 1725 HD2 **Collective Bargaining; Employee Payroll Deductions** – Requires public employees in collective bargaining units to provide written notification to the exclusive representative to discontinue payroll assignments within a certain time period. Requires the exclusive representative to forward the notification to the employer within ten business days of receipt. *Effective upon approval.*

ACT 010
(05/01/18)
HB 2114 SD1 **Collective Bargaining; Scope of Negotiations** – Provides that negotiations over the implementation of management decisions affecting the terms and conditions of employment that are subject to collective bargaining are not precluded from collective bargaining negotiations. Specifies that negotiations over the procedures and criteria of certain subjects of bargaining does not compel either party to agree to a proposal or make a concession. *Effective upon approval.*

Government Agencies

ACT 56
(06/27/18)
HB 1932 CD1 **Emergency Rules; Public Proceedings and Records** – Authorizes agencies to adopt emergency rules to account for changes in controlling and superseding federal statutes or state or federal case law, subject to public hearing and at least 30 days notice. Provides for expiration no later than adjournment sine die of the next regular legislative session following adoption. *Effective upon approval.*

ACT 187
(07/10/18)
SB 2801 CD1 **Labor Law Enforcement Special Fund** – Establishes the Labor Law Enforcement Special Fund to finance the collection of penalties for violations of labor law; establishes two positions, including an attorney and legal assistant, in the Department of the Attorney General to represent the DLIR in collecting penalties for violations of law. *Effective July 1, 2018.*

ACT 186
(07/10/18)
SB 2803 CD1 **Boiler and Elevator Safety Law; Fund** – Makes housekeeping amendments to Boiler and Elevator Safety Law; extends the time from five to ten years for the Director of Labor and Industrial Relations to reimburse the general fund from the Boiler and Elevator Revolving Fund. *Effective July 1, 2018.*

Miscellaneous

ACT 147
(07/06/18)
HB 1906 CD1 **Health Care Work; Assault** – Makes it a Class C felony to intentionally or knowingly cause bodily injury to (1) a person who is engaged in the performance of duty at a health care facility; (2) a person who is engaged in providing home health care services; or (3) a person employed or contracted work to work by a mutual benefit society to provide case management services to an individual. *Effective upon approval.*

ACT 74
(06/29/18)
HB 2003 CD1 **DUI; Employer Vehicles** – Allows requests for permits that authorize the respondent or defendant to operate an employer's vehicle during the period of license revocation to be supported by the employer's sworn statement attesting to the period of the specified assigned hours of work that the defendant will drive the vehicle for purposes of employment. *Effective July 1, 2018.*

ACT 217
(07/10/18)
SB 2461 CD1 **Service Animals; Misrepresentation; Definition** – Makes it unlawful to knowingly misrepresent as a service animal any animal that does not meet the requirements of a service animal under the law. Imposes a fine between \$100-250 for each violation. *Effective January 1, 2019.*

ACT 98
(06/29/18)
SB 2719 CD1 **Sexual Abuse of a Child; Statute of Limitations** – Extends the period during which a victim of child sexual abuse may bring an otherwise time-barred civil action against the victim's abuser or an entity with a duty of care. *Effective July 1, 2018.*

ACT 97
(06/29/18)
SB 2742 CD1 **Criminal History Record Information** – Resolves inconsistencies in the processing of expungements and public dissemination of criminal history record information relating to cases in which the defendant is acquitted or charges are dismissed by reason of physical or mental disease, disorder, or defect under HRS Chapter 704, or is involuntarily hospitalized under HRS Section 706-607. *Effective July 1, 2018.*