

July 17, 2015

2015 - Employment Bills After Veto Deadline

Employee Rights and Restrictions

- ACT 158**
(06/26/15)
HB 1090 CD1 **Non-Compete and Non-Solicit Clauses; Technology Businesses** – Prohibits the use of a non-compete or non-solicit clauses in any employment contract relating to an employee of a technology business and provides that any such clauses are void. Exempts companies in the broadcast or telecommunications industries. *Effective July 1, 2015.*
- ACT 137**
(06/19/15)
SB 1009 CD1 **Service Charges; Portage Charges; Hotels** – Expands to hotels (in addition to restaurants) the requirement that a service charge for the sale of food or beverage service must be distributed directly to the employees in full as tip income or disclosure must be made to the purchaser of the services that the service charge is being used to pay for costs or expenses other than wages and tips of employees. Also expands this requirement to the costs of portage services charged by a hotel. Portage is defined as the act of moving luggage, bags, or parcels between a guest room and a lobby, front desk or any area with vehicular access at a hotel or condominium-hotel. *Effective upon approval.*

Health and Insurance

- ACT 213**
(07/02/15)
HB 174 CD1 **Health Insurance; Orthodontic Treatment; Orofacial Anomalies** – Requires health insurance coverage of orthodontic treatment for orofacial anomalies resulting from birth defects or syndromes for policy holders and individuals under 26 years of age. Requires written notice of such coverage to be provided to the policy holder. *Effective July 1, 2015.*
- ACT 212**
(07/02/15)
HB 467 SD1 **Pulse Oximetry Screening; Newborns; Birthing Facilities** – Requires birthing facilities to perform a pulse oximetry test or other medically accepted screening on newborns to screen for critical congenital heart defects. Requires birthing facilities to report certain critical congenital heart defect screening data to the department of health. *Effective July 1, 2015.*
- ACT 033**
(05/05/2015)
SB 736 HD2 **Health Insurance Reimbursement; Notice** – Requires at least 30 days written notice prior to recoupment or offset demand efforts for health insurance payments to health care providers. Prohibits recoupment or offset efforts more than 18 months after an initial claim payment was received, with specific exceptions. *Effective upon approval.*
- ACT 235**
(07/13/2015)
SB 791 CD1 **Health Insurance; Autism Spectrum Disorders** – Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism spectrum disorder treatments to a policyholder and individual 14 years of age and under. Provided, however, that coverage for applied behavioral analysis shall be subject to a maximum benefit amount of \$25,000 per year for children 13 years of age and under. Exempts disability, accident-only, medicare, medicare supplement, student accident and health or sickness insurance, dental-only, and vision-only policies or policies or renewals of six months or less. *Effective July 1, 2015.*

Healthcare Facilities

ACT 190
(07/01/15)
SB 1113 CD1
Healthcare Facilities; Background Checks – Expands the scope of background checks conducted by the Department of Health on operators, employees, applicants, and volunteers in health care facilities and other persons providing health care on behalf of the Department of Health to include criminal history record checks, sex offender registry record checks, adult abuse perpetrator and child abuse and neglect record checks, and certified nurse aide registry record checks. *Effective July 1, 2015.*

Hawaii Health Connector

ACT 184
(07/01/15)
HB 576 CD1
Patient Protection and Affordable Care Act; State Innovation Waiver Task Force – Narrows the scope of work to be performed by the State Innovation Waiver Task Force to facilitate the development of an Affordable Care Waiver in a timely manner. *Effective upon approval.*

ACT 076
(06/03/15)
SB 1028 CD1
Hawaii Health Connector; Sustainability and Funding – Appropriates \$2,000,000 out of the state’s general fund for the fiscal year 2015-2016 for the operations of the Hawaii Health Connector. *Effective July 1, 2015.*

Hawaii Health Systems Corporation (“HHSC”)

ACT 103
(06/10/15)
HB 1075 CD1
Maui Regional System; Public-Private Collaboration – Authorizes the Governor, the Board of Directors of HHSC, and Board of the Maui Regional System Board to enter into an agreement with a private entity duly authorized to conduct business in the State to transfer any one or more of the facilities of the Maui Regional System to a new nonprofit management entity to manage, operate, and use to provide health care services. *Effective upon approval.*

ACT 051
(05/15/15)
SB 1117 CD1
HHSC; Appropriation – Provides an emergency appropriation of \$15,000,000 out of the state’s general fund for the fiscal year 2014-2015 for the purpose of supporting the functions of HHSC. *Effective upon approval.*

Medical Marijuana

ACT 241
(07/14/15)
HB 321 CD1
Medical Marijuana Dispensaries; Transportation of Medical Marijuana; Certification; Cultivation – Establishes a licensing system for medical marijuana dispensaries. Prohibits counties from enacting zoning regulations that discriminate against licensed dispensaries and production centers. Allows a qualifying patient, primary caregiver, or an owner or employee of a medical marijuana production center or dispensary to transport medical marijuana in any public place, under certain conditions. Replaces the requirement that a certifying physician be the qualifying patient’s primary care physician with a requirement that the physician have a bona fide physician-patient relationship with the qualifying patient. Allows persons authorized to use and possess medical marijuana in other states to be treated similarly to qualifying patients in this State pursuant to rules adopted by the department of health after 1/1/2018. Prohibits primary caregivers from cultivating medical marijuana after 12/31/2018, subject to certain exceptions. Authorizes the department of health to conduct criminal history checks on license applicants, licensees, prospective employees of dispensaries and production centers, subcontractors, and persons authorized to enter and remain on such premises. Appropriates funds. *Effective July 1, 2015.*

ACT 242
(07/14/15)
SB 1291 CD1
Medical Marijuana Discrimination – Prohibits discrimination against medical marijuana patients and caregivers by schools, landlords, courts with regard to medical care or parental rights, planned community associations, condominium property regimes, and condominiums. *Effective upon approval.*

Smoking; Electronic Cigarettes (“E-Cigarettes”); Tobacco Products

ACT 123
(06/19/15)
HB 525 SD2
Smoking; Public Parks – Prohibits smoking and the use of tobacco products and e-cigarettes within the state park system. Allows department of land and natural resources to designate areas that are not subject to smoking ban at state parks. Requires posting of signage prohibiting smoking or the use of tobacco products. *Effective July 1, 2015.*

ACT 019
(04/23/15)
HB 940 HD1
E-Cigarettes – Amends Chapter 328J of the Hawaii Revised Statutes to prohibit the use of e-cigarettes in places where smoking is prohibited. Provides definitions for “electronic smoking devices” and “tobacco product.” Revises definition of “smoking” to include the use of an electronic smoking device. *Effective January 1, 2016.*

ACT 122
(06/19/15)
SB 1030 HD2
Sale of Tobacco and E-Cigarettes – Increases the minimum age for sale, possession, consumption, or purchase of tobacco products or electronic smoking devices from eighteen to twenty-one. Defines “tobacco products” to include electronic smoking devices. *Effective January 1, 2016.*

Public Works Contracts

ACT 165
(06/26/15)
HB 391 CD1
Public Works; Overtime Compensation – Allows overtime compensation on public works projects to exceed time and one-half and specifies that if the department of labor and industrial relations determines that a prevailing wage is defined by collective bargaining, overtime will be at rates set by the applicable collective bargaining agreement. Specifies that overtime compensation and other premium pay rates are those rates specified in an applicable collective bargaining agreement when the basic hourly rate is established by a collective bargaining agreement. *Effective July 1, 2015.*

ACT 167
(06/26/15)
HB 952 CD1
Public Works Projects; Confidentiality of Complaints – Ensures confidentiality of a complainant in an investigation of wage and hour violations for public works projects by requiring that all names of complainants shall be withheld from the employer unless prior permission is given by the complainant to release the complainant’s name. *Effective July 1, 2015.*

Public Employees

ACT 168
(06/26/15)
HB 1268 CD1
Public Employees; Workers’ Compensation – Requires injured public employees who are eligible to take part in an employer’s return to work program do so as a prerequisite to vocational rehabilitation benefits. *Effective July 1, 2015.*

ACT 086
(06/05/15)
SB 1089 HD1
Workers’ Compensation Benefits; Retirement Service Credits – Requires an employee receiving workers’ compensation benefits to have retirement contributions deducted from those benefits. Establishes prospectively applicable, 1-year deadlines for claims for service credits and for commencement of payments. Provides for payment for acquisition based on actuarial cost. *Effective upon approval.*

Government Agencies

- ACT 166 (06/26/15)**
HB 696 CD1 **Healthcare Workforce Advisory Board** – Establishes the Hawaii healthcare workforce advisory board to help increase and strengthen the healthcare workforce in the State of Hawaii. Allows the director of labor and industrial relations to establish workforce advisory boards to be placed in the department for administrative purposes only. *Effective July 1, 2015.*
- ACT 004 (04/09/15)**
HB 951 HD1 **Labor and Industrial Relations Appeals Board; Notice of Hearing** – Allows the Labor and Industrial Relations Appeals Board the option to provide notice of hearing by online posting on the board's webpage if service by first class mail fails to elicit a response from the party. *Effective upon approval.*

General Excise Tax (“GET”) Exemption

- ACT 018 (04/23/15)**
HB 966 HD1 **GET Exemption; Nonprofit Organizations** – Re-inserts the words “as such” into Section 237-23 of the Hawaii Revised Statutes that were previously repealed. The use of the words “as such” require that GET exemptions are available only for activities that are undertaken in pursuit of a non-profit organization’s exempt purpose, whether it be for fraternal, religious, charitable, scientific, educational, communal, or social welfare activities, or to the activities of hospitals, infirmaries, sanitarium, and potable water companies, as such, and not for the primary purpose of generating income. Applies retroactively to taxable years beginning after December 31, 2011. *Effective upon approval.*

Miscellaneous

- ACT 227 (07/13/15)**
HB 770 SD1 **Liquor Licenses; Off-Premises Consumption** – Authorizes restaurants with a liquor license to sell beer, malt beverages, or cider for off-premises consumption, under certain conditions. Authorizes retail dealers with a liquor license to sell beer, malt beverages, or cider in non-original packages, under certain conditions. Authorizes brewpubs and small craft producer pubs with a liquor license to sell malt beverages manufactured on the premises or purchased from another liquor licensee for off-premises consumption. *Effective July 1, 2015.*

Resolutions

- HCR 168 SD1 **Workers’ Compensation; Working Group** – Requests the department of labor and industrial relations to convene a working group to streamline the state’s workers’ compensation process, including the employer-requested medical examination and filing process by converting to a computerized system.
- SCR 88 SD1 **Office of Information Management and Technology; Personal Information; Data Breach; Working Group** – Requests the information privacy and security council, in cooperation with the state chief information officer council, to assess existing procedures of notification following the breach of personal information. Requests that a report be submitted to the legislature no later than 20 days prior to the 2016 legislative session.