

Testimony to the Senate Committee on Judiciary and Labor
Thursday, February 9, 2012
9:30 a.m.
State Capitol - Conference Room 016

RE: SENATE BILL NO. 2573 RELATING TO BREASTFEEDING IN THE
WORKPLACE

Chair Hee, Vice Chair Shimabukuro, and members of the committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber believes that this measure is unnecessary due to existing federal laws that provide this proposed requirement.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

SB 2573 requires an employer with twenty or more employees to make reasonable efforts to provide a clean location for breastfeeding employees to express breast milk in privacy. Requires covered employers to post a notice pertaining to this provision in a conspicuous location. Establishes a civil fine for the failure of an employer to provide a location or post notice.

The Affordable Care Act (ACA) amended Section 7 of the Fair Labor Standards Act, to require employers to provide "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." See DOL FAQ (<http://www.dol.gov/whd/nursingmothers/faqBTNMM.htm>). Therefore, most employers are already required to do what SB 2573 is mandating.

There may be some small employers that are not covered by ACA because they do not make the \$500,000 annual dollar volume minimum threshold and with 20 or more employees for FLSA coverage. For the small number of employers, this bill would add an additional requirement as they might not have the funds or ability to comply with the mandates. For those impacted employers, the bill should not apply to them or should at the very least have an undue burden defense, similar to the one provided under ACA/FLSA.

Thank you for the opportunity to express our views.