

# HAWAII

## Hawaii Prohibits Requiring Employees to Download COVID-19 Tracing Apps

On July 7, 2021, Hawaii [adopted a law](#) that prohibits employers from requiring their employees and applicants to download COVID-19 tracing apps to their personal communication devices.

### Prohibition Requirements

The prohibition applies to current and prospective employees when employers intend the download as a condition of employment. In addition, the prohibition applies when the application in question would permit the employer to:

- Track an employee's location; or
- Access an employee's personal information.

As an additional protection to employees, the new law also prohibits employers from retaliating—terminating, discharging or otherwise discriminating—against employees who refuse to download (or consent to download) a COVID-19 tracing application.

However, the new law does allow employers and employees to enter into voluntary consensual agreements to download and use COVID-19 tracing apps. The law also provides some exemptions when conflicts arise with existing law or requirements imposed by the federal government, or when employees are required to carry employer-owned devices.

### Privacy Concerns

The state legislature adopted this law because of growing “privacy concerns and anxiety over potential misuse of the location information” made available by these apps.

### Impact on Employers

Employers in Hawaii should review their COVID-19 and employee device policies and procedures to ensure compliance with this law.

### Key Terms

#### Mobile Application

A type of application software designed to run on a mobile electronic device, such as a smartphone or tablet computer.

#### Personal Communication Device

A device allowing for electronic communication, including a mobile phone and tablet, that is not owned, or the cost of which is not reimbursed, by the employer.

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