
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION INSURANCE.

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

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- Return to work programs; certification. The
5 department shall establish a program to certify effective return
6 to work programs of businesses that are subject to this chapter.
7 The program shall include criteria and procedures that the
8 department deems necessary to ensure that injured employees are
9 provided with suitable return to work opportunities and for
10 businesses to qualify for the workers' compensation insurance
11 premium reduction provided under section 431:14-103(c). The
12 criteria and procedures for this program shall be adopted as
13 rules in accordance with chapter 91."

14 SECTION 2. Section 431:14-103, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§431:14-103 Making of rates.** (a) Rates shall be made in
17 accordance with the following provisions:



- 1 (1) Rates shall not be excessive, inadequate, or unfairly
2 discriminatory.
- 3 (2) Due consideration shall be given to:
- 4 (A) Past and prospective loss experience within and
5 outside this State; provided that if the claim
6 does not exceed the selected deductible amount
7 pursuant to section 386-100, and the employer
8 reimburses the insurer for the amount, the claims
9 shall not be calculated in the employer's
10 experience rating or risk category;
- 11 (B) The conflagration and catastrophe hazards, if
12 any;
- 13 (C) A reasonable margin for underwriting profit and
14 contingencies;
- 15 (D) Dividends, savings, or unabsorbed premium
16 deposits allowed or returned by insurers to their
17 policyholders, members, or subscribers;
- 18 (E) Past and prospective expenses both country-wide
19 and those specially applicable to this State;
- 20 (F) Investment income from unearned premium and loss
21 reserve funds; and



1 (G) All other relevant factors within and outside
2 this State.

3 (3) In the case of fire insurance rates, consideration
4 shall be given to the experience of the fire insurance
5 business during a period of not less than the most
6 recent five-year period for which that experience is
7 available.

8 (4) The systems of expense provisions included in the
9 rates for use by any insurer or group of insurers may
10 differ from those of other insurers or groups of
11 insurers to reflect the requirements of the operating
12 methods of any insurer or group with respect to any
13 class of insurance, or with respect to any subdivision
14 or combination thereof for which subdivision or
15 combination separate expense provisions are
16 applicable.

17 (5) Risks may be grouped by classifications for the
18 establishment of rates and minimum premiums.
19 Classification rates may be modified to produce rates
20 for individual risks in accordance with rating plans
21 that establish standards for measuring variations in
22 hazards or expense provisions, or both. These



1 standards may measure any differences among risks that
2 can be demonstrated to have a probable effect upon
3 losses or expenses. No risk classification may be
4 based upon race, creed, national origin, or the
5 religion of the insured.

6 (6) Manual, minimum, class rates, rating schedules, or
7 rating plans shall be made and adopted, except in the
8 case of:

9 (A) Special rates where manual, minimum, class rates,
10 rating schedules, or rating plans are not
11 applicable; and

12 (B) Specifically rated inland marine risks.

13 (7) No insurer authorized to do business in this State
14 shall issue any policy that provides or makes
15 available to any risks preferred rates based upon any
16 grouping of persons, firms, or corporations by way of
17 membership, license, franchise, contract, agreement,
18 or any other means, other than common majority
19 ownership of the risks, or except where:

20 (A) A common stock ownership in and management
21 control of the risks are held by the same person,
22 corporation, or firm;



1 (B) Permitted or authorized by filings in existence
2 as of January 1, 1988, under the casualty rating
3 law and the fire rating law, as these filings may
4 be amended from time to time;

5 (C) Health care providers, as defined in section 671-
6 1 that could have joined the patients'
7 compensation fund as it existed in chapter 671,
8 part III, prior to May 31, 1984, joined together
9 with one or more groups of related or unrelated
10 health care providers;

11 (D) Permitted under article 12; or

12 (E) Otherwise expressly provided by law.

13 (b) In cases of workers' compensation insurance, all rates
14 made in accordance with this section shall be given due
15 consideration for good safety records of employers. By premium
16 reductions, dividends, or both, insurance carriers shall
17 recognize good safety performance records of employers in this
18 State.

19 (c) In cases of workers' compensation insurance, all rates
20 made in accordance with this section shall be given due
21 consideration for an effective return to work program of
22 employers. By premium reductions, dividends, or both, insurance



1 carriers shall recognize effective return to work programs of
2 employers in this State.

3 ~~(c)~~ (d) Upon the issuance of a certificate by a
4 certified safety and health professional to an employer that the
5 employer has an effective safety and health program pursuant to
6 section 396-4.5~~(7)~~ or by the department of labor and industrial
7 relations for an effective return to work program the insurer
8 shall provide the employer with a workers' compensation
9 insurance premium discount of at least five per cent~~(7)~~ for an
10 effective safety and health program, and a premium discount of
11 at least five per cent for an effective return to work program;
12 provided that the employer shall maintain the effective safety
13 and health program or the effective return to work program
14 throughout the policy period. Standards for the issuance of
15 certificates shall be included in rules adopted by the
16 department of labor and industrial relations pursuant to chapter
17 91.

18 ~~(d)~~ (e) For the purpose of ratemaking, all insurers
19 shall treat a volunteer firefighter the same as a firefighter
20 employed by a county fire department; provided that the
21 volunteer firefighters are attached to a station where a
22 firefighter or volunteer firefighter who has been trained and



1 certified to drive a commercial motor vehicle by either the
2 state or county government, as appropriate, and who maintains a
3 category (3) license as defined by section 286-102(b)(3) is on
4 duty at all times or at least four firefighters or volunteer
5 firefighters who have been trained and certified to drive a
6 commercial motor vehicle by either the state or county
7 government, as appropriate, and who maintain a category (3)
8 license as defined by section 286-102(b)(3) are members of the
9 volunteer unit.

10 [~~e~~] (f) Except to the extent necessary to meet the
11 provisions of subsection (a)(1), uniformity among insurers in
12 any matters within the scope of this section is neither required
13 nor prohibited."

14 SECTION 3. Notwithstanding section 386-72, Hawaii Revised
15 Statutes, as amended by section 7 of Act 11, Special Session
16 Laws of Hawaii 2005, the department of labor and industrial
17 relations shall establish rules in accordance with chapter 91,
18 Hawaii Revised Statutes, to certify effective return to work
19 programs of Hawaii businesses for the purpose of receiving the
20 workers' compensation insurance premium discount authorized
21 under section 2 of this Act.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.
4

INTRODUCED BY:

Pat Nehson
Calvin G. Bay
Kirk Caldwell
RCR

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Report Title:

Workers' Compensation; Return to Work Program; Premium Discount

Description:

Establishes a workers' compensation insurance premium discount for businesses that establish and maintain a return to work program that is certified by the department of labor and industrial relations.

