

JAN 24 2007

A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. Section 394B-2, Hawaii Revised Statutes, is
2 amended:

3 1. By adding a new definition of "divestiture" to be
4 appropriately inserted and to read:

5 "Divestiture" means the transfer of any covered
6 establishment from one employer to another because of the sale,
7 transfer, merger, and other business takeover or transaction of
8 business interests."

9 2. By amending the definitions of "closing" and "covered
10 establishment" to read as follows:

11 "Closing" means the permanent shutting down of all
12 operations within a covered establishment due to the sale,
13 transfer, merger, [~~and~~] other business takeover or transaction
14 of business interests, bankruptcy, or other close of business
15 transaction [~~which~~] that results in or may result it the layoff
16 or termination of employees of a covered establishment by the
17 employer."



1 "Covered establishment" means any industrial, commercial,
2 or other business entity [~~which~~] that employs at any time in the
3 preceding twelve-month period, fifty or more persons."

4 3. By amending the definition of "employer" to read as
5 follows:

6 ""Employer" means any [~~person who,~~] individual or entity
7 that, directly or indirectly, owns, operates, or has a
8 controlling interest in a covered establishment, excluding the
9 State or any political subdivision thereof."

10 SECTION 2. Section 394B-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§394B-9 Notification[-]; penalty.** (a) An employer in a
13 covered establishment shall provide to each employee and the
14 director written notification of a closing, divestiture, partial
15 closing, or relocation at least sixty days prior to its
16 occurrence.

17 (b) An employer who violates this section shall be liable
18 to each affected employee for an amount equal to back pay and
19 benefits for the period of violation not to exceed sixty days.
20 This liability may be reduced by any:

21 (1) Wages the employer pays during the notice period; and



1 (2) Voluntary and unconditional payment not required by a
2 legal obligation.

3 An employer who fails to provide notice under this section shall
4 be subject to a civil penalty not to exceed \$500 for each day of
5 the violation; provided that the employer may avoid the penalty
6 if the employer satisfies its liability to each affected
7 employee within three weeks after the closing. In any suit, the
8 court, in its discretion, may allow the prevailing party a
9 reasonable attorney's fee as part of the costs."

10 SECTION 3. Section 394B-12, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]§394B-12[+]~~ **Civil penalties.** ~~[Any]~~ Except as provided
13 in section 394B-9(b), any employer who fails to conform to the
14 provisions of this chapter shall be liable to each of the
15 employees affected in an amount equal to the value of all their
16 wages, benefits, and other compensation for the three months
17 preceding the closure, partial closure, or relocation of the
18 covered establishment."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.



S.B. NO. 1662

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Employment; Dislocated Workers; Notification; Penalty

Description:

Amends definitions of "closing", "covered establishment", and "employer". Requires employer to notify employees of divestiture. Imposes penalties for failure to notify employees of business closing.

