

STAND. COM. REP. NO. 151

Honolulu, Hawaii

FEBRU , 2009

RE: H.B. No. 1130

H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 1130 entitled:

"A BILL FOR AN ACT RELATING TO THE BOILER AND ELEVATOR SAFETY LAW,"

begs leave to report as follows:

The purpose of this bill is to:

- (1) Allow the Department of Labor and Industrial Relations (DLIR) to set re-inspection frequencies up to three years for boilers, pressure systems, amusement rides, elevators, and kindred equipment based on factors relevant to the safe operation of the equipment rather than based on time;
- (2) Providing DLIR with, in addition to the right to question, the right to obtain records and documents of any employer, owner, operator, agent, or employee in investigation, enforcement, and inspection activities;
- (3) Inserting language stipulating that DLIR may prohibit the use of boilers, pressure systems, amusement rides, or elevators and kindred equipment, or any practice, means, method, operation, or process employed or used if, in the opinion of DLIR, the condition or operation of such equipment or practice constitutes an imminent



hazard to the life or safety of any person rather than simply being unsafe or not properly guarded;

- (4) Deleting language allowing DLIR to apply to the circuit court of the circuit in which boilers, pressure systems, amusement rides, or elevators and kindred equipment are situated or a practice, means, method, operation or process of this equipment is employed, for an injunction restraining the use or operation of the equipment until it is made safe when DLIR is of the opinion that these constitute an imminent hazard to the life or safety of any person, or to property; and
- (5) Inserting language providing DLIR with the right to initiate necessary legal proceedings in the circuit court of the circuit in which a boiler, pressure system, amusement ride, or elevator and kindred equipment is situated for an injunction where a condition or practice involving this equipment could reasonably be expected to cause death or serious physical harm.

DLIR testified in support of this bill. The International Union of Elevator Constructors, Local 126, testified in opposition to this measure. A concerned individual submitted comments.

Currently, the law requires that re-inspections for renewals of permits to operate equipment such as boilers, elevators, pressure systems, and amusement rides not exceed one year. However, it has been difficult for DLIR to maintain this schedule due to a shortage of inspectors. Although accidents still occur, these types of devices and equipment have been made safer over the years.

However, your Committee finds that the frequency of inspections should not simply be based upon a particular timeframe but rather on a set of established standards. Doing so will ensure the safety of the equipment being used and the people using this equipment.

Your Committee has amended this bill by:

- (1) Stipulating that criteria for the reinspection and renewal of a permit shall be based upon the American Society of Mechanical Engineers standards contained in ASME A17.1-2000 Section 8.6 rather than simply establishing a three year re-inspection period;



- (2) Reinserting language stipulating that DLIR may prohibit the use of boilers, pressure systems, amusement rides, or elevators and kindred equipment, or any practice, means, method, operation, or process employed or used if, in the opinion of DLIR, the condition or operation of such equipment or practice is unsafe or not properly guarded, rather than constituting an imminent hazard to the life or safety of any person; and
- (3) Reinserting language allowing DLIR to apply to the circuit court of the circuit in which boilers, pressure systems, amusement rides, or elevators and kindred equipment are situated or a practice, means, method, operation or process of this equipment is employed, for an injunction restraining the use or operation of the equipment until it is made safe when DLIR is of the opinion that these constitute an imminent hazard to the life or safety of any person, or to property.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1130, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1130, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



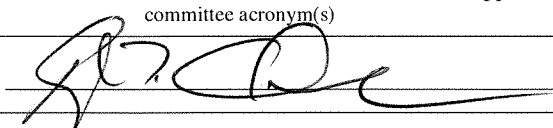
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KARL RHOADS, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: <b>HB 1130</b>	Committee Referral: <b>LAB, CPC/JUD, FIN</b>	Date: <b>2-6-09</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)	/			
3. AQUINO, Henry J.C.	/			
4. AWANA, Karen Leinani				/
5. HANOHANO, Faye P.	/			
6. KEITH-AGARAN, Gilbert S.C.	/			
7. LEE, Marilyn B.	/			
8. NAKASHIMA, Mark M.	/			
9. SAIKI, Scott K.	/			
10. SOUKI, Joseph M.	/			
11. TAKUMI, Roy M.				/
12. PINE, Kymberly Marcos	/			
<b>TOTAL (12)</b>	<b>10</b>	<b>-</b>	<b>-</b>	<b>2</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				