

SCR 40

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 10, 2010

To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Health

The Honorable Dwight Y. Takamine, Chair
and Members of the Senate Committee on Labor

Date: March 11, 2010

Time: 2:45 p.m.

Place: Conference Room 224, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**Testimony in Opposition to S.C.R. 40 –
Expressing Support for Enforcement of Existing OSHA Regulations on the Use of
Hexavalent Chromium and Urging OSHA to Develop Safer Alternatives and Ban
Hexavalent Chromium**

I. DLIR's OPPOSITION TO THE SENATE CONCURRENT RESOLUTION

The Department opposes the resolution for the following reasons:

First, the Resolution states: "Occupational Safety and Health Administration (OSHA) regulations limit acceptable levels for workplace exposure to hexavalent chromium, but do not contain mechanisms for enforcement or penalties for noncompliance." This statement is not accurate.

OSHA established the Permissible Exposure Level (PEL) for hexavalent chromium in 2006, which is 5 micrograms/m³ for a Time-Weighted Average (TWA) of 8 hours. If this PEL is exceeded, the HIOSH will issue a serious citation and monetary fine to the responsible party. Therefore, it is not accurate to claim that there are no enforcement mechanisms or penalties for noncompliance.

Furthermore, on February 23, 2010, OSHA adopted a National Emphasis Program concerning Hexavalent Chromium, aimed at identifying and reducing or eliminating health hazards associated with occupational exposure to hexavalent chromium. The HIOSH is currently in the process of adopting this emphasis program.

Second, the Resolution endorses the “Trivalent Chromium Process” as a “safer alternative to hexavalent chromium.” It is unclear upon what evidence or study this conclusion is based. We do not have any evidence of consensus in the relevant scientific community on whether the trivalent chromium process is a safer alternative.

Third, the Resolution urges OSHA to “develop and promote the use of safer alternatives to hexavalent chromium.” As a regulatory agency, the HIOSH cannot endorse any particular industrial process or chemical to be used in such process. The industry must play a key role in developing safer alternatives. We do not have a clear understanding of the industry's position or consensus on this matter.

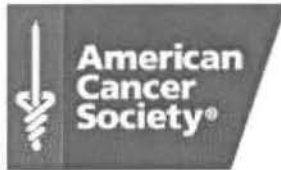
II. OVERVIEW OF PROPOSED RESOLUTION

S.C.R. 40 proposes to do the following:

- Expresses strong support for vigorous enforcement of existing OSHA regulations on hexavalent chromium until the goal of banning its use is achieved.
- Urges OSHA to adopt meaningful enforcement mechanisms of OSHA regulations regarding hexavalent chromium in the workplace, including penalties for noncompliance.
- Urges OSHA to work to develop and promote the use of safer alternatives to hexavalent chromium with the goal of eventually banning hexavalent chromium.

III. CURRENT LAW

OSHA and the Hawaii Occupational Safety and Health Division (HIOSH) have already set the Permissible Exposure Levels for hexavalent chromium. Should these levels be exceeded, a serious citation and monetary fine will be issued.



March 10, 2010

Committee on Health
Senator David Ige, Chair
Senator Josh Green, M.D., Vice Chair

Committee on Labor
Senator Dwight Takamine, Chair
Senator Brian Taniguchi, Vice Chair

Hearing:

2:45 P.M. Thursday, March 11, 2010
Hawaii State Capitol, Room 224

RE: SCR40 – Expressing Support for enforcement of existing OSHA regulations on the use of hexavalent chromium and urging OSHA to develop safer alternatives and ban hexavalent chromium.

Testimony in Support

Chair Ige, Chair Takamine, and members of the Committees of Health, and Labor. Thank you for the opportunity to testify in support of this resolution.

For the past 62 years, the American Cancer Society Hawaii Pacific, Inc. has been dedicated to eliminating cancer mortality and reducing the suffering caused by cancer through education, advocacy, research, and prevention. Because of prevention, we have made much progress in reducing certain types of cancers caused by highly toxic chemicals and substances.

Lung cancer has been linked to hexavalent chromium which is used here in Hawaii by welders at the Pearl Harbor Naval Ship Yard, as well as, in metal and iron fabrication, and custom chrome plating. However, use of this deadly material is unnecessary. A safer substance, trivalent chromium, is non-carcinogenic and can be used in many of same processes that utilize hexavalent chromium.

The Society believes that enhance enforcement of OSHA safety regulations of hexavalent chromium, and the substitution of trivalent chromium will ultimately result in the decreased incidence of lung cancers in metal working occupations. We strongly urge the committees to pass this resolution.

Thank you for the opportunity to present testimony here today.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Massengale".

George S. Massengale, JD
Director of Government Relations