



GOV. MSG. NO. **1240**

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 20, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

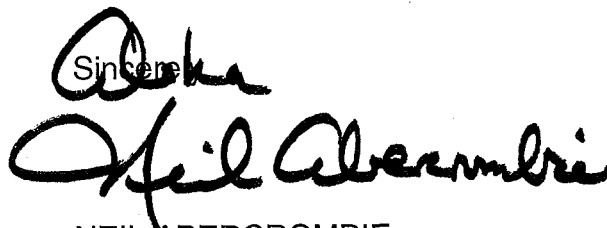
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 20, 2011, the following bill was signed into law:

SB1089 SD1 HD2 CD1

RELATING TO DISLOCATED WORKERS
Act 137 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 20 2011

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 137
S.B. NO. 1089
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO DISLOCATED WORKERS.

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

- 1 SECTION 1. Section 371-12, Hawaii Revised Statutes, is
2 amended to read as follows:
- 3 "§371-12 Labor law enforcement; injunction. The
4 department of labor and industrial relations shall:
- 5 (1) Enforce the child labor provisions of this chapter;
6 (2) Enforce this chapter relative to the regulation of
7 commercial employment agencies;
8 (3) Enforce any other labor laws enacted by the
9 legislature of the State;
- 10 (4) Enforce the provisions of section 394B-9 regarding
11 dislocated workers;
- 12 ~~[(4)]~~ (5) Enforce any rules or regulations of the
13 department. The department may institute proceedings
14 to enjoin any employer from violating this chapter or
15 the rules or regulations of the department when any
16 such employer is violating any such provision or is
17 threatening to do so and the circuit courts are hereby
18 vested with jurisdiction in the premises;



1 ~~[(5)]~~ (6) Conduct investigations in connection with the
2 foregoing; and
3 ~~[(6)]~~ (7) Perform such additional duties as the director of
4 labor and industrial relations shall by rule
5 prescribe."

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

8 "**§394B-9 Notification; penalty.** (a) An employer in a
9 covered establishment shall provide to each employee and the
10 director written notification of a closing, divestiture, partial
11 closing, or relocation at least sixty days prior to its
12 occurrence.

13 (b) An employer that violates this section shall be liable
14 to each affected employee for an amount equal to back pay and
15 benefits for the period of violation not to exceed sixty days.
16 This liability may be reduced by any:

- 17 (1) Wages the employer pays during the notice period; and
- 18 (2) Voluntary and unconditional payment not required by a
19 legal obligation.

20 (c) An employer of a covered establishment that is
21 actively seeking a buyer for a sale, transfer, or merger shall
22 not be required to provide the notice required under subsection



1 (a) until the employer has entered into a binding agreement for
2 the sale, transfer, or merger of the covered establishment that
3 results in a divestiture.

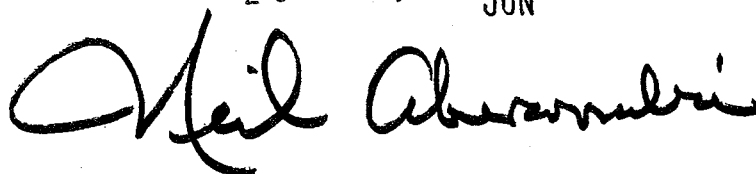
4 (d) An employer who fails to provide notice under this
5 section shall be subject to a civil penalty not to exceed \$500
6 for each day of the violation and the amount shall be deposited
7 in the employment and training fund under section 383-128;
8 provided that the employer may avoid the penalty if the employer
9 satisfies its liability to each affected employee within three
10 weeks after the closing. In any suit, the court, in its
11 discretion, may award the prevailing party reasonable attorney's
12 fees and costs.

13 (e) The department shall enforce this section and shall
14 have all the powers and duties conferred and imposed upon it
15 pursuant to section 371-12."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 2011.

APPROVED this 20 day of JUN, 2011



GOVERNOR OF THE STATE OF HAWAII