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## A BILL FOR AN ACT

RELATING TO DISLOCATED WORKERS.

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

1           SECTION 1. Section 394B-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "covered establishment" to  
3 read as follows:

4           ""Covered establishment" means any industrial, commercial,  
5 or other business entity that employs at any time in the  
6 preceding twelve-month period, [~~fifty or more~~] any number of  
7 persons."

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

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

15           (b) An employer that violates this section shall be liable  
16 to each affected employee for an amount equal to back pay and  
17 benefits for the period of violation not to exceed sixty days.

18 This liability may be reduced by any:



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

4 (c) An employer of a covered establishment that is

5 actively seeking a buyer for a sale, transfer, or merger shall

6 not be required to provide the notice required under subsection

7 (a) until the employer has entered into a binding agreement for

8 the sale, transfer, or merger of the covered establishment that

9 results in a divestiture.

10 (d) An employer who fails to provide notice under this

11 section shall be subject to a civil penalty not to exceed \$500

12 for each day of the violation and the amount shall be deposited

13 in the employment and training fund under section 383-128;

14 provided that the employer may avoid the penalty if the employer

15 satisfies its liability to each affected employee within three

16 weeks after the closing. In any suit, the court, in its

17 discretion, may award the prevailing party reasonable attorney's

18 fees and costs.

19 (e) Notwithstanding any law to the contrary, the

20 department shall enforce this section and shall have, in

21 connection therewith, all the powers and duties conferred and

22 imposed upon it pursuant to section 371-12."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: Karl Rhoads

JAN 21 2011



**Report Title:**

Dislocated Workers; Enforcement Powers; Employer

**Description:**

Authorizes the DLIR to exercise enforcement powers against an employer in a covered establishment that would require the employer to adhere to, and comply with, the notification and penalty provisions of section 394B-9, HRS. Redefines "covered establishment" to include any number of employed persons.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

