

JAN 21 2011

A BILL FOR AN ACT

RELATING TO THE HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW.

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

1 SECTION 1. Section 396-10, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (b) to (i) to read:

4 "(b) Any employer who has received an order or citation
5 for a serious violation of any standard or rule adopted pursuant
6 to this chapter shall be assessed a civil penalty of not more
7 than [~~\$7,000~~] \$ _____ for each violation.

8 (c) Any employer who has received an order or citation for
9 a violation of any standard or rule adopted pursuant to this
10 chapter, and the violation is specifically determined not to be
11 of a serious nature, may be assessed a civil penalty of up to
12 [~~\$7,000~~] \$ _____ for each violation.

13 (d) Each day a violation continues shall constitute a
14 separate violation except that during an abatement period only,
15 no additional penalty shall be levied against the employer.

16 (e) Any employer who violates any of the posting
17 requirements prescribed under this chapter shall be assessed a
18 civil penalty of up to [~~\$7,000~~] \$ _____ for each violation.



1 (f) Any employer who wilfully or repeatedly violates this
2 chapter, or any standard, rule, citation, or order issued under
3 the authority of this chapter, shall be assessed a civil penalty
4 of not less than [~~\$5,000~~] \$ _____ nor more than [~~\$70,000~~] \$ _____
5 for each violation.

6 (g) Any employer convicted of wilful or repeated violation
7 of any standard, rule, citation, or order issued under authority
8 of this chapter resulting in the death of an employee shall be
9 punished by a fine of not more than [~~\$70,000~~] \$ _____ or by
10 imprisonment for not more than six months, or both, except that
11 if the conviction is for a violation committed after a first
12 conviction, punishment shall be by a fine of not more than
13 [~~\$70,000~~] \$ _____ or by imprisonment for not more than one year,
14 or both. Failure to correct a violation for which an order or
15 citation of arrest has been issued shall be evidence of wilful
16 conduct.

17 (h) Any employer who has received an order for violation
18 under section 396-8(e) may be assessed a civil penalty of not
19 more than [~~\$1,000~~] \$ _____ for each violation.

20 (i) Any person who gives advance notice of any inspection
21 to be conducted under this chapter, without authority from the
22 director or the director's designees [~~shall~~], upon conviction,



1 shall be punished by a fine of not more than [~~\$1,000~~] \$ _____ or
2 by imprisonment for not more than six months, or by both."

3 2. By amending subsections (m) and (n) to read:

4 "(m) Whoever knowingly makes any false statement,
5 representation, or certification in any application, record,
6 report, plan, or other document filed or required to be
7 maintained pursuant to this chapter [~~shall~~], upon conviction,
8 shall be punished by a fine of not more than [~~\$10,000,~~] \$ _____,
9 or by imprisonment for not more than six months, or by both.

10 (n) Criminal offenses committed against any employee of
11 the State acting within the scope of the employee's office,
12 employment, or authority under this chapter shall be subject to
13 the penalties set forth in the Hawaii Penal Code; provided that:

14 (1) Ten years shall be added to the maximum term of
15 imprisonment (unless life imprisonment is imposed) and
16 [~~\$50,000~~] \$ _____ shall be added to the maximum fine
17 imposed for conviction of a class A felony;

18 (2) Five years shall be added to the maximum term of
19 imprisonment and [~~\$25,000~~] \$ _____ shall be added to
20 the maximum fine imposed for conviction of a class B
21 felony;



1 (3) Three years shall be added to the maximum term of
2 imprisonment and [~~\$10,000~~] \$ _____ shall be added to
3 the maximum fine for conviction of a class C felony;

4 (4) One year shall be added to the maximum term of
5 imprisonment and [~~\$2,000~~] \$ _____ shall be added to the
6 maximum fine for conviction of a misdemeanor; and

7 (5) The maximum term of imprisonment and maximum fines
8 prescribed for misdemeanors under the Hawaii Penal
9 Code shall apply to convictions of a petty
10 misdemeanor."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY:

Chamber



Report Title:

Occupational Safety and Health

Description:

Raises the civil penalty amounts and additional criminal fines for violations of the Hawaii occupational safety and health Law.

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