

JAN 21 2011

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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-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§394B-9 Notification; penalty.** (a) An employer in a  
4 covered establishment shall provide to each employee and the  
5 director written notification of a closing, divestiture, partial  
6 closing, or relocation at least sixty days prior to its  
7 occurrence.

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

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

15           (c) An employer of a covered establishment that is  
16 actively seeking a buyer for a sale, transfer, or merger shall  
17 not be required to provide the notice required under subsection  
18 (a) until the employer has entered into a binding agreement for



1 the sale, transfer, or merger of the covered establishment that  
2 results in a divestiture.

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

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

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

19 "'Covered establishment" means any industrial, commercial,  
20 or other business entity that employs at least one person at any  
21 time in the preceding twelve-month period[~~, fifty or more~~  
22 ~~persons~~]."



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: Chris Lee



**Report Title:**

Dislocated Workers; Enforcement Powers; Employers

**Description:**

Authorizes the department of labor and industrial relations to exercise enforcement powers against an employer in a covered establishment. Amends the definition of a "covered establishment" subject to chapter 394B, HRS, relating to dislocated workers, to include any business entity that employs at least one person within the previous year.

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

