



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

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February 28, 2011

To: The Honorable Marcus R. Oshiro, Chair  
and Members of the House Committee on Finance

Date: Monday, February 28, 2011

Time: 5:00 p.m.

Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations

**Testimony in OPPOSITION**  
**of**  
**H.B. No. 527 HD1 Relating to Workers' Compensation**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB 527 HD 1 proposes to amend section 386-3, HRS to disallow workers' compensation claims for any injury or illness resulting from voluntary participation in any activity, the major purpose of which is social or recreational, whether or not the employer pays some or all of the cost of the activity.

**II. CURRENT LAW**

The current law does not specifically address coverage of an injury for participation in such activities, social or recreational, whether or not the employer pays some or all of the cost of the activity.

**III. SENATE/HOUSE BILL**

The Department of Labor and Industrial Relations opposes this bill. Injuries resulting from voluntary participation in employer related social or recreational activities could be compensable and should be decided thru the hearing process.

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

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PETER B. CARLISLE  
MAYOR



NOEL T. ONO  
DIRECTOR

February 28, 2011

The Honorable Marcus R. Oshiro, Chair  
and Members of the Committee on Finance  
The House of Representatives  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

Subject: House Bill No. 527, HD1, Relating to Workers' Compensation

The City and County of Honolulu supports passage of House Bill No. 527, HD1, as it would amend Chapter 386-3 (b), Hawaii Revised Statutes (HRS), to disallow workers' compensation benefits for injuries or illnesses resulting from an employee's voluntary participation in social or recreational activities, whether the employer pays some or all of the cost of the activity. We respectfully urge your Committee to pass House Bill No. 527, HD1.

Yours truly,

A handwritten signature in cursive script, appearing to read "Noel T. Ono".

Noel T. Ono  
Director of Human Resources

HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2011

**COMMITTEE ON FINANCE**

Rep. Marcus R. Oshiro Chair  
Rep. Marilyn B. Lee, Vice Chair

Hearing: Monday, February 28, 2011

Time: 5:00 p.m.

Place: Conference Room 308, State Capitol

**TESTIMONY OF ILWU LOCAL 142**

**RE: HB 527, HD 1, RELATING TO WORKERS COMPENSATION**

Chair Oshiro, Vice Chair Lee, Members of the Committee:

Thank you for the opportunity to comment about HB 527, HD 1. We oppose this bill.

HB 527, HD 1 seeks to deny workers' compensation coverage to employees who are injured in social or recreational activities even if they are paid for or sponsored by their employers.

This proposal is a reversal of well-established law, followed nationally, that holds that employees injured during the course and scope of company-sponsored recreation or social activities are considered to be within the course and scope of employment. The number of claims involving recreational or social activity are extremely limited so there is no significant system-wide cost impact of including these claims. Employers obviously benefit from and choose to sponsor such recreation because it improves employee morale, creates stronger interpersonal relationships on the job, and promotes employee health and fitness. Such claims have always been properly included in coverage because they satisfy the work-connection test by which all coverage is determined within Hawaii.

Moreover, Section 386-3 HRS will continue to exclude self-inflicted injuries from coverage and injuries that are the result of the employee's intoxication. In this fashion, proper boundaries will remain drawn to achieve a proper balance between the inclusion and exclusion of claims.

There is no legitimate reason to depart from the traditional scope of coverage and those injured at company social events or while engaged in company sponsored recreation should remain covered under workers' compensation. Their injuries are no less legitimate or in need of care and compensation than those occurring in any other work-related injury. We therefore urge that HB 527, HD 1 be held.



Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair  
Committee on Finance

State Capitol, Honolulu, Hawaii 96813

HEARING      Monday, February 28, 2011  
5:00 pm  
Conference Room 308  
Agenda #8

**RE:    HB527, HD1, Relating to Workers' Compensation**

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is the one of the largest single employers in the state, employing almost 24% of the labor force.

**RMH supports HB527, HD1**, which disallows workers' compensation benefits for illness or injury resulting from voluntary social or recreational activities, whether the employer pays for some of all of the cost of the activities.

We do not dispute that an injured worker should receive quality and appropriate medical care as directed by his/her physician for a workplace injury. However, it is incumbent upon the employee to maintain reasonable care for his/her own well-being during voluntary social or recreational activities. The employer should not be held liable for behavior outside the workplace.

It is imperative that, as the economy continues its fragile improvement, we support our employers by not increasing business costs that would hinder true recovery for our State.

The members of the Retail Merchants of Hawaii respectfully request that you pass HB527, HD1. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

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HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2011

COMMITTEE ON FINANCE  
Rep. Marcus Oshiro, Chair

HB 527  
Relating to Worker's Compensation

Chair Oshiro and Members of the Finance Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, in support to this bill.

Outrigger Hotels supports and sponsors a large number of social and recreational events, which supports community organizations, such as the Ala Wai Challenge. This event goes to benefit the Ala Wai Community Center and we encourage employees to participate in events like this to help the community.

This bill will alleviate the fears of business owners concerned about the potential liability issues, which in turn should help them fund more social and recreational activities for employees, especially activities which benefit community organizations.

We urge the passage of this bill.

Thank you for allowing me to testify.

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 28, 2011 10:14 AM  
**To:** FINTestimony  
**Cc:** debrab@financefactors.com  
**Subject:** Testimony for HB527 on 2/28/2011 5:00:00 PM

Testimony for FIN 2/28/2011 5:00:00 PM HB527

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Debra Bringman  
Organization: Individual  
Address:  
Phone:  
E-mail: [debrab@financefactors.com](mailto:debrab@financefactors.com)  
Submitted on: 2/28/2011

**Comments:**

Employers look for ways of boosting morale and camaraderie by having recreational activities outside of work time. If the event is voluntary, then work comp should not have to cover employees, even if the event is fully paid by the employer.