

Honolulu, Hawaii

Feb 9, 2012

RE: H.B. No. 1699

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Labor & Public Employment and Economic Revitalization & Business, to which was referred H.B. No. 1699 entitled:

"A BILL FOR AN ACT RELATING TO LABOR,"

beg leave to report as follows:

The purpose of this measure is to promote the health and safety of employees by:

- (1) Prohibiting an employer from requiring an employee to work for five or more consecutive hours without providing a rest or meal break period of 30 consecutive minutes, unless a collective bargaining agreement expressly provides otherwise for meal breaks; and
- (2) Imposing penalties for the failure to provide a meal break.

The Labor Caucus Chair of the Democratic Party of Hawaii and a concerned individual testified in support of this measure. The Chamber of Commerce of Hawaii, Hawaii Business League, Retail Merchants of Hawaii, Society for Human Resources Management - Hawaii Chapter, Aloha Glass Recycling, and Building Industry Association of Hawaii testified in opposition to this measure. The Department of Labor and Industrial Relations, Hawaii Transportation Association, and Covanta Energy Corporation provided comments.



Currently, neither state nor federal wage and hour laws require employers to provide employees 16 years of age or older any meal break, regardless of how many consecutive hours they may be required to work, although the provision of meal or rest breaks is a common practice of employers. While your Committees recognize that many employers provide meal breaks to their employees, your Committees find that statutorily requiring employees working for a certain amount of hours to be given a meal break will promote the efficiency and effectiveness of employees, and more importantly may reduce the incidence of worker injuries and will enhance workers' morale.

However, your Committees understand the concerns raised by opponents of the measure that the variability of job demands in certain industries may require that breaks not be given for a continuous, uninterrupted period of time since some employees need to "eat on the run." Your Committees also recognize that employees that are provided meal breaks may currently make arrangements with their employers to take their break at the start of or at the end of the employee's work shift. Your Committees do not wish to restrict in any way an employer from making these types of arrangements with an employee. Nevertheless, this measure deserves further consideration and these questions and concerns can be addressed as the measure makes its way through the legislative process.

Your Committees have amended this measure by:

- (1) Allowing an employee that is scheduled to work a total of six hours to work without a bona fide meal period to complete their scheduled work hours early if the employee so chooses;
- (2) Exempting employers who are operators of a continuously operating facility that is regulated by environmental permits as long as an on-duty meal period is provided;
- (3) Specifying a penalty for the failure to provide meal breaks of one and a half hours of the employee's regular wage at the time the infraction occurred;
- (4) Changing its effective date to December 31, 2057, to facilitate further discussion; and



- (5) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Labor & Public Employment and Economic Revitalization & Business that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1699, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1699, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Labor & Public
Employment and Economic
Revitalization & Business,



ANGUS L.K. MCKELVEY, Chair



KARL RHOADS, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: HB 1699	Committee Referral: LAB/ERP, JUD, FIN	Date: 1-27-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)		✓		
3. AQUINO, Henry J.C.	/			
4. CULLEN, Ty		✓		
5. ICHIYAMA, Linda	/			
6. LEE, Marilyn B.	/			
7. LUKE, Sylvia		/		
8. OKAMURA, Tom		/		
9. SAIKI, Scott K.		/		
10. SOUKI, Joseph M.		✓		
11. TAKUMI, Roy M.	/			
12. FONTAINE, George R.		✓		
13. JOHANSON, Aaron Ling		/		
TOTAL (13)	5	8		
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

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Record of Votes of the Committee on Economic Revitalization & Business

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ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. AWANA, Karen L.		✓		
4. BROWER, Tom	✓			
5. EVANS, Cindy	✓			
6. HASHEM, Mark J.				✓
7. NISHIMOTO, Scott Y.				✓
8. TOKIOKA, James Kunane		✓		
9. TSUJI, Clift	✓			
10. MARUMOTO, Barbara C.				✓
11. PINE, Kymberly Marcos	✓			
TOTAL (11)	6	2	—	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted if joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ <i>Sam Welch</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				