



LATE TESTIMONY

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

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January 30, 2012

To: The Honorable Angus L.K. McKelvey, Chair, Isaac W. Choy, Vice Chair,
and Members of the House Committee on Economic Revitalization &
Business

Date: Tuesday, January 31, 2012
Time: 8:30 a.m.
Place: Conference Room 312, State Capitol

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

Re: H.B. No. 2077 Relating to Occupational Safety and Health

I. OVERVIEW OF PROPOSED LEGISLATION

HB2077 requires employers who conduct events with potentially large crowds to develop crowd safety management plans. The bill subjects employers to penalties under §396-10, HRS, to ensure the safety and well-being of employees and event attendees.

The department believes that current HIOSH and OSHA standards already cover some aspects of crowd management safety plans as required in the proposed measure.

Key provisions of the proposed measure include the following:

- An employer must develop a crowd safety management plan that shall include:
 - Training of employees in crowd management
 - Determining when trained security personnel or police should be used
 - Equipment such as barricades to prevent undue rushing, pushing or unruly behavior

- Signage to inform people of entrances and exits
- Safety measures to accommodate people with disabilities
- Restricting the number of people who may enter a building or designated area so as not to exceed its maximum occupancy limit
- Communicating with fire and police agencies to determine if all public safety requirements are met
- Designating specific employees the responsibility to notify emergency personnel when needed
- A report to the 2013 legislature on the department's progress in adopting rules

II. CURRENT LAW

The Occupational Safety and Health Division (HIOSH) promulgates legally enforceable standards which require the use of practices, means or processes that are reasonably necessary and appropriate to protect employees on the job. Both HIOSH and OSHA also incorporate other standards developed by other organizations that oversee the development of voluntary consensus standards.

- HIOSH Standards—Hawaii Administrative Rule (HAR) incorporates by reference 29 CFR 1910 Means of Egress, which give the general requirements for providing a safe means of egress from a workplace during an emergency. The following is a summary of the contents of 29 CFR 1910 Subpart E:

§ 1910.34 Coverage and definitions.

- (a) Every employer is covered.
- (b) Exit routes are covered.
- (c) Definitions.

§ 1910.35 Compliance with Alternate Exit Route Codes.

§ 1910.36 Design and construction requirements for exit routes.

- (a) Basic requirements.
- (b) The number of exit routes must be adequate.
- (c) Exit discharge.
- (d) An exit door must be unlocked.
- (e) A side-hinged exit door must be used.
- (f) The capacity of an exit route must be adequate.
- (g) An exit route must meet minimum height and width requirements.
- (h) An outdoor exit route is permitted.

§ 1910.37 Maintenance, safeguards, and operational features for exit routes.

- (a) The danger to employees must be minimized.

- (b) Lighting and marking must be adequate and appropriate.
- (c) The fire retardant properties of paints or solutions must be maintained.
- (d) Exit routes must be maintained during construction, repairs, or alterations.
- (e) An employee alarm system must be operable.

§ 1910.38 Emergency action plans.

- (a) Application.
- (b) Written and oral emergency action plans.
- (c) Minimum elements of an emergency action plan.
- (d) Employee alarm system.
- (e) Training.
- (f) Review of emergency action plan.

§ 1910.39 Fire prevention plans.

- (a) Application.
- (b) Written and oral fire prevention plans.
- (c) Minimum elements of a fire prevention plan.
- (d) Employee information.

For more detailed information regarding the rules, please see the appendix.

III. COMMENTS ON THE HOUSE BILL

- The department believes that current HIOSH and OSHA standards already cover some aspects of crowd management safety plans as required in the proposed measure.
- The occupational safety and health laws are intended to ensure safe and healthful working conditions in the state and this measure appears to be designed primarily for the protection of the public, i.e., large crowds gathered at retail sales events and concerts. The focus of the bill (i.e., the crowd management safety plan) does not appear to relate to employee safety, but rather, to customer or patron safety.

Select HIOSH/OSHA Standards from CFR 1910 Subpart E and Select NFPA Standards

1. 29 CFR 1910.34 defines an exit route in this way: "Exit route means a continuous and unobstructed path of exit travel from any point within a workplace to a place of safety (including refuge areas). An exit route consists of three parts: The exit access; the exit; and, the exit discharge. (An exit route includes all vertical and horizontal areas along the route.) Exit access—that portion which leads to the entrance of an exit;
 - a. Exit—that portion which is separated from all other spaces of a building or structure by construction or equipment to provide a protected way of travel to the exit discharge; and
 - b. Exit discharge—that portion between the termination of an exit and a public way.
- HIOSH requires that "each exit route be adequately lighted so that an employee with normal vision can see along the exit route". 1910.37(b)(1).
- HIOSH also requires that "each exit must be clearly visible and marked by a sign reading "EXIT"". 1910.37(b)(2). "Each exit route door must be free of decorations or signs that obscure the visibility of the exit route door." 1910.37(b)(3). "Each doorway or passage along an exit access that could be mistaken for an exit must be marked "NOT AN EXIT" or similar designation, or be identified by a sign indicating its actual use (e.g., closet)." 1910.37(b)(5).
- Exit Sign Specifications-- Every sign must have the word "Exit" in plainly legible letters not less than six inches high, with the principal stroke of the letter .75 inches wide (29 CFR 1910.37(b)(7)). (See NFPA 101 7.10 for further specifications.) Where the direction of travel to the nearest exit is not immediately apparent, a sign reading "Exit" or similar designation with an arrow indicating the direction to the exit is required (29 CFR 1910.37(b)(4)).
- Requirements for Exit Sign Illumination (National Fire Safety Association 101)
 1. Externally illuminated—the light source is contained outside of the device or legend that is to be illuminated. The light source is typically a dedicated incandescent or fluorescent source;
 2. Internally illuminated—the light source is contained inside the device or legend that is illuminated. The light source is typically incandescent, fluorescent, electro luminescent, light-emitting diodes, or photoluminescent; and

3. Photoluminescent— the sign is illuminated by self-contained power sources and operates independently of external power sources. (Batteries do not qualify as a self-contained power source.)
 - Every required exit sign must be suitably illuminated by a reliable light source and be visible in both normal and emergency lighting modes (NFPA 101 2006 7.10.5.1). The illuminated surface value of the exit sign should have a value of not less than five foot-candles (29 CFR 1910.37(b)(6)). NFPA 101 2006 7.10.5 has the same requirement (5 foot-candles) for internally and externally illuminated signs, with exceptions made for approved self-luminous or electro luminescent signs that provide evenly illuminated letters; they must have a minimum luminescence of 0.06 foot lambert as measured by a color-corrected photometer.
 - NFPA 101, Life Safety Code 2006, section 7.9, describes the requirements for emergency lighting. (Emergency lighting is not specifically required for all occupancies. Refer to NFPA 101 2006, UL 924 and county building codes for specific requirements.) Emergency illumination (when required) must be provided for a minimum of 1.5 hours in the event of failure of normal lighting. The emergency lighting must be arranged to provide initial illumination of not less than an average of one foot-candle and a minimum at any point of 0.1 foot-candle measured along the path of egress at floor level. These levels can decline to a minimum of 0.6 foot-candle average and 0.06 foot-candle at any one point at the end of emergency lighting time (1.5 hours). The maximum illumination at any one point can be no more than 40 times the minimum illumination at any one point to prevent excessively bright and dark spots (NFPA 101 2006 7.9.2.1).
 - The emergency lighting system must be arranged to provide illumination automatically in the event of any interruption of normal lighting (NFPA 101 2006 7.9.2.3).
 - 29 CFR 1910.165 requires some entities to provide emergency employee alarms and states, "The employee alarm system shall provide warning for necessary emergency action as called for in the emergency action plan, or for reaction time for safe escape of employees from the workplace or the immediate work area, or both.