



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Committee on Judiciary

HB 2309, HD1, RELATING TO ADMINISTRATIVE PENALTIES

**Testimony of Gary Gill
Deputy Director, Environmental Health Administration**

**February 11, 2014
2:00 p.m.**

1 **Department's Position:** The department strongly supports this bill as it is included in the
2 department's administrative package.

3 **Fiscal Implications:** Passage of this measure will have positive impacts to the State's general fund.

4 **Purpose and Justification:** The purpose of this bill is to increase administrative penalties for violations
5 of chapter 321, HRS from not to exceed \$1,000 for each day of violation, to not to exceed \$10,000 for
6 each day of violation. This administrative penalty has not been increased in nearly 30 years and
7 currently does not have the necessary impact to force violators of departmental rules to rapidly correct
8 major violations. HAR governing food establishments are necessary to protect the residents and visitors
9 to Hawaii from possibly fatal or debilitating diseases or conditions. In the present economy, a \$1,000
10 per day violation does not have the impact needed to force corrections of violations that may lead to
11 fatalities, extensive hospitalization, permanent physical damage and undue pain and suffering. Food
12 facilities will now open without the necessary inspections and food permits to safe-guard public health
13 due to the profits that can easily be made above the existing maximum penalties of \$1,000 per day.
14 High-end restaurants that charge over \$100 per meal know they can generate over ten times the daily

1 fine when open. The increase in the penalty will provide the DOH the necessary impetus to force food
2 facility owners to avoid violations of the food rules that may directly lead to injurious food borne
3 illnesses.

4 The maximum penalty of \$10,000 per day per violation provides the department the ability to
5 better scale the severity of the violation to the final penalty amount. Violations of lesser severity will be
6 assessed lower penalty amounts while egregious violations will be assessed the maximum penalty
7 amount of \$10,000. The increase will also provide parity with HRS Chapter 328; Food, Drugs and
8 Cosmetics, which in part provides regulatory authority over food manufacturers, distributors, and
9 retailers. HRS Chapter 328 already provides a maximum penalty of \$10,000 per day per violation.

10 Other western states have very similar civil penalties; Arizona has civil penalties (36-183.04) for
11 restaurant violations of up to \$5,000 dollars, California has a maximum of \$10,000 dollars for food code
12 violations under the California Sherman Food Drug, & Cosmetic Act, and a maximum of \$2,500 fine
13 under the California Retail Food Code, Oregon has civil penalties (ORS 616.700-Sanitary Req. for Food
14 Establishments) up to a maximum of \$10,000.

15 The department has recently completed public hearings on sweeping new food safety regulations
16 based on the most current science to protect public health. The new rule also introduces a highly visible
17 restaurant grading system as well as a move towards a paperless, web-based food safety inspection
18 system. The proposed increase in penalties that this measure provides will bring the decades old
19 enforcement tool up to date with the most current food safety regulations.

20 Thank you for the opportunity to testify.



HAWAII RESTAURANT ASSOCIATION

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Info@HawaiiRestaurant.org

DATE: February 10, 2014
FROM: Roger Morey, Executive Director
RE: HB2309 HD1, Relating to Administrative Penalties

The Hawaii Restaurant Association opposes this bill.

There are more than 3,000 licensed foodservice operations in Hawaii. Many of them are small, family owned operations and could not sustain such fines. It would, literally, put them out of business with negative consequences including diminution of taxes being paid, increase in unemployment and genuine family hardships. Truly, the current \$1,000.00 per day amount gets their attention.

Additionally, and just as important, the soon to be introduced Department of Health placard program (which the Hawaii Restaurant Association supports) precludes the need for such draconian fines.

Respectfully submitted,



Executive Officers:
Stanley Brown, ConAgra Foods - Chairperson
John Schilf, RSM Hawaii - Vice Chair
Derek Kurisu, KTA Superstores - Treasurer
Lisa DeCoito, Aloha Petroleum - Secretary
Lauren Zirbel, Executive Director

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TO:
HOUSE COMMITTEE ON JUDICIARY
Rep. Karl Rhoads, Chair
Rep. Sharon Har, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 11, 2014
TIME: 2pm
PLACE: Conference Room 325

RE: HB 2309

Position: Opposition

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers and distributors of food and beverage related products in the State of Hawaii.

This is a 1,000% increase in potential fines. This type of drastic and abrupt increase is unwarranted. The Department of Health already has a range of tools for dealing with infractions. The existing maximum fine is already high enough that it would have a detrimental financial impact on any business that committed an infraction which merited it; it is more than sufficient as a financial deterrent.

This bill is also incredibly far reaching. Because this bill amends section 321-20 it applies to not only all restaurants but also suppliers and manufacturers. This could have negative effects for a range of businesses that are very important to our economy as a whole.

Increasing the fines in this way is unnecessary for the Department of Health, for businesses, and for consumers.

Thank you for the opportunity to testify.



LATE

Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Judiciary
Tuesday, February 11, 2014 at 2:00 P.M.
Conference Room 325, State Capitol**

**RE: HOUSE BILL 2309, HD1 RELATING TO ADMINISTRATIVE
PENALTIES**

Chair Rhoads, Vice Chair Har, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 2309, HD1 Relating to Administrative Penalties.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber believes that there is no reason to increase fines. Large and punitive fines could cause harm to small businesses. We believe that penalties should be fair and allow the business to fix those violations. Excessively large penalties may cause some businesses to not be economically viable.

We respectfully ask that this bill be held in committee. Thank you for the opportunity to testify.