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## A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that injured workers lack  
2 incentive to return to part-time work because the law does not  
3 require employers to timely pay the injured workers the  
4 temporary partial disability benefits. When injured workers do  
5 not return to part-time work, the costs of doing business  
6 increase. The legislature further finds that fourteen calendar  
7 days from the end of the customary work week to process the  
8 temporary partial disability benefits is more than enough time  
9 to process temporary partial disability benefits rightfully due  
10 and owing to injured workers. Accordingly, this Act creates a  
11 late payment penalty to incentivize employers to timely disburse  
12 temporary partial disability benefits.

13           The legislature further finds that disabled workers are  
14 often unfairly denied disability benefits because their  
15 physicians do not complete and sign a specialized form that  
16 certifies the injured worker is entitled to compensation. This  
17 Act clarifies that a determination of eligibility for disability  
18 benefits does not depend on a specialized form certified by the



1 treating physician, but rather an examination of the injured  
2 employee's entire file.

3 SECTION 2. Section 386-92, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§386-92 Default in payments of compensation, penalty.

6 (a) If any compensation payable under the terms of a final  
7 decision or judgment is not paid by a self-insured employer or  
8 an insurance carrier within thirty-one days after it becomes  
9 due, as provided by the final decision or judgment, or if any  
10 temporary total disability benefits are not paid by the employer  
11 or carrier within ten days, exclusive of Saturdays, Sundays, and  
12 holidays, after the employer or carrier has been notified of the  
13 disability, and where the right to benefits are not controverted  
14 in the employer's initial report of industrial injury or where  
15 temporary total disability benefits are terminated in violation  
16 of section 386-31, or if temporary partial disability benefits  
17 are not paid by the employer or insurance carrier within  
18 fourteen calendar days after the end of the employee's customary  
19 work week, there shall be added to the unpaid compensation an  
20 amount equal to twenty per cent thereof payable at the same time  
21 as, but in addition to, the compensation, unless the nonpayment  
22 is excused by the director after a showing by the employer or



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1 insurance carrier that the payment of the compensation could not  
2 be made on the date prescribed therefor owing to the conditions  
3 over which the employer or carrier had no control.

4 (b) In addition to the compensation owed by the employer,  
5 the penalty shall be due and payable without the necessity of an  
6 order or decision from the director.



7 (c) An employee's eligibility for disability benefits  
8 shall be determined by an examination of the employee's entire  
9 record, and the failure of the attending physician to certify  
10 the dates of disability in an interim report as provided in  
11 section 386-96, shall not disqualify the employee from temporary  
12 total disability or temporary partial disability benefits."

13 SECTION 3. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

JAN 17 2014



# H.B. NO. 1973

**Report Title:**

Workers' Compensation; Penalty; Temporary Partial Disability Benefits; Eligibility Determination

**Description:**

Imposes a penalty on an employer who does not pay an employee temporary partial disability benefits within fourteen calendar days after the end of the employee's customary work week. Clarifies that an eligibility determination for disability benefits depends on the employee's entire record and the failure of the attending physician to certify a specialized form provided by the employer or the department does not disqualify the employee from disability benefits.

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

