



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

In reply, please refer to:
File:

Committee on Health

Committee on Judiciary and Labor

SB 2859, RELATING TO ADMINISTRATIVE PENALTIES

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

**February 10, 2014
1:45 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

Promoting Lifelong Health & Wellness

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.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Health and Committee on Judiciary
and Labor**

**Monday, February 10, 2014 at 1:45 P.M.
Conference Room 229, State Capitol**

RE: SENATE BILL 2859 RELATING TO ADMINISTRATIVE PENALTIES

Chairs Green and Hee, and Vice Chairs Baker and Shimabukuro, and Members of the Committees:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 2859 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 this increase in fines from \$100 to \$10,000 per day is too large and punitive and 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.



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

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

TO:
SENATE COMMITTEES ON HEALTH and JUDICIARY AND LABOR
Senator Josh Green and Senator Clayton Hee, Chairs
Senator Rosalyn Baker and Senator Maile Shimabukuro, Vice Chairs

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 10, 2014
TIME: 1:45pm
PLACE: Conference Room 229

RE: SB 2859

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.

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB2859 on Feb 10, 2014 13:45PM*
Date: Saturday, February 08, 2014 11:56:02 AM

SB2859

Submitted on: 2/8/2014

Testimony for HTH/JDL on Feb 10, 2014 13:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov