

STAND. COM. REP. NO. 3051

Honolulu, Hawaii

MAR 23 2016

RE: H.B. No. 2363
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Commerce, Consumer Protection, and Health, to which was referred H.B. No. 2363, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LABOR,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Exclude sole proprietors, individual partners of a partnership, partners of a limited liability partnership with a transferable interest of at least fifty percent, individual members of a limited liability company with a distributional interest of at least fifty percent, or individuals owning at least fifty percent of a corporation from providing temporary disability insurance coverage for services they provide for themselves;
- (2) Authorize the Director of Labor and Industrial Relations to receive electronic copies of injury and other reports; and
- (3) Amend the penalty to an unspecified amount for:
 - (A) Employers who do not provide temporary disability insurance coverage for employees, fail to make correct or timely benefit payments or terminate



benefits absent approval or statutory cause, fail to file medical reports or provide copies of requested medical reports, fail to provide workers' compensation coverage, and unlawfully deduct premium payments from employee wages; and

- (B) Physicians who fail to timely submit workers' compensation injury and treatment forms.

Your Committees received testimony in support of this measure from the Department of Labor and Industrial Relations, Hawai'i Construction Alliance, Pacific Resource Partnership, and ILWU Local 142.

Your Committees find that employers do not always provide workers' compensation or temporary disability insurance coverage due to the misclassification of employees as independent contractors. The existing penalties for noncompliance with the State's workers' compensation law have not been amended since 1988 and are ineffective in encouraging compliance. Implementation of this measure will facilitate the resolution of workers' compensation cases, expedite medical and indemnity benefits for injured employees, and provide better assurance that employers and stakeholders in the workers' compensation and temporary disability insurance industries comply with the law.

Your Committees have amended this measure by:

- (1) Increasing the maximum penalty for employers or insurance carriers who fail to make correct or timely benefit payments or terminate such benefits without approval or statutory cause from \$2,500 to \$5,000;
- (2) Increasing the maximum penalty for physicians who fail to file workers' compensation medical reports from \$250 to \$500;
- (3) Increasing the maximum penalty for employers who fail to furnish medical reports or allow inspection and copying of requested medical depositions from \$1,000 to \$5,000;
- (4) Increasing the penalty for employers who fail to provide workers' compensation coverage for employees from the greater of at least \$250 or \$10 per employee per day of

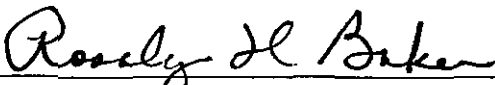


failure, to the greater of at least \$500 or \$100 per employee per day of failure;

- (5) Increasing the maximum penalty for employers who deduct premium payments from an employee's wages from \$2,500 to \$5,000;
- (6) Increasing the penalty for employers who fail to provide temporary disability insurance coverage for employees from the greater of at least \$25 or \$1 per employee per day of failure, to the greater of at least \$500 or \$100 per employee per day of failure; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Commerce, Consumer Protection, and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2363, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2363, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Judiciary and Labor and Commerce, Consumer Protection, and Health,



ROSALYN H. BAKER, Chair



GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2363, HD1	JDL/CPH, WAM	3-17-14		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
KIDANI, Michelle N. (VC)	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.				/
RUDERMAN, Russell E.				/
SLOM, Sam	/			
TOTAL	5			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
<i>Michelle N. Kidani</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes