
A BILL FOR AN ACT

RELATING TO LABOR.

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

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding three new sections to part IV to be
3 appropriately designated and to read as follows:
4 "§386- Stop-work order; failure to observe; penalties.
5 An employer or employer representative who directs employees to
6 work in violation of the stop-work order issued and served upon
7 the employer pursuant to section 386-123 shall be guilty of a
8 misdemeanor punishable by imprisonment not exceeding one year or
9 by a fine not exceeding \$10,000, or both. Both the employer and
10 employer representative who directed employees to work in
11 violation of the stop-work order shall be held in violation of
12 this section. The director may obtain injunctive and other
13 relief from the circuit court to enforce the provisions of this
14 chapter.
15 §386- Stop-work order; withdrawal; penalties remitted.
16 The director has the discretion to withdraw a stop-work order or
17 remit all or any part of the penalty in excess of \$500 if good



1 cause is shown; provided the employer in default complies with
2 section 386-121.

3 §386- Enforcement; recovery of attorneys' fees and
4 costs. The court may award reasonable attorneys' fees and costs
5 to the department in an action brought by the department to
6 enforce the provisions of this chapter, including injunctive and
7 other relief to carry out the purposes of sections 386-121 and
8 386-123."

9 SECTION 2. Section 386-99, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§386-99[+] Posting of information. (a) Each employer
12 shall post and maintain, in places readily accessible to
13 [~~individuals in the employer's employ~~] employees, printed
14 statements concerning benefit rights, claims for benefits, and
15 [~~such~~] other matters relating to the administration of this
16 chapter as the department of labor and industrial relations may
17 [~~by regulation~~] prescribe[-] by rule. Each employer shall
18 supply [~~to such individuals~~] employees with copies of [~~such~~] the
19 printed statements or other materials relating to claims for
20 benefits [~~when and as the~~] in accordance with rules that the
21 department may [~~by regulation prescribe. Such printed~~



1 ~~statements and other materials shall be supplied by the~~
2 ~~department to each employer without cost to the employer.]~~
3 adopt.

4 (b) Employers who are subject to section 386-121:

5 (1) Shall post the name of the employer's insurer that
6 secures compensation pursuant to section 386-
7 121(a)(1); or

8 (2) Shall post the identity of the self-insured employer's
9 claims adjuster for claims made pursuant to this
10 chapter.

11 The employer shall post the notice in a conspicuous and
12 accessible location where the employees can easily read the
13 notice during the hours of the workday. Failure to keep the
14 notice required by this section conspicuously posted in a place
15 accessible to employees shall be prima facie evidence of a
16 violation of section 386-121."

17 SECTION 3. Section 386-123, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§386-123 Failure to give security for compensation;
20 penalty; injunction[-]; stop-work order; fines. (a) If an
21 employer fails to comply with section 386-121, or fails to



1 comply with section 386-99(b), the director or the director's
2 designee shall provide the employer with written notice
3 requiring the employer to provide evidence, satisfactory to the
4 director or director's designee, of having secured any necessary
5 insurance or self-insurance in accordance with section 386-121
6 within three business days. If an employer fails to provide
7 evidence of insurance or self-insurance within three business
8 days, the director or the director's designee shall issue and
9 serve the employer a stop-work order that prohibits the use of
10 employee labor by the employer until the employer is in
11 compliance with the provisions of section 386-121. The stop-
12 work order shall become effective immediately upon service. Any
13 employee who is affected by the work stoppage shall be paid by
14 the employer for the time lost, not to exceed ten days, pending
15 compliance by the employer.

16 (b) An employer may protest a stop-work order by making
17 and filing with the director a written request for a hearing
18 within days after service of the stop-work order. The
19 hearing shall be held within days from the date of filing
20 the request. The director shall notify the employer of the time
21 and place of the hearing by mail. At the conclusion of the



1 hearing, the stop-work order shall be affirmed or dismissed, and
2 within _____ hours after the hearing, the director shall issue a
3 written decision to all parties by registered or certified mail.
4 If any party is aggrieved by the decision of the director or the
5 designated hearings officer, the party may appeal in the manner
6 provided in chapter 91 to the circuit court; provided that the
7 operation of a stop-work order shall not be stayed on appeal
8 unless specifically ordered by a court of competent jurisdiction
9 in accordance with section 91-14(c).

10 (c) At the time the stop-work order is issued and served
11 pursuant to this section, the director or the director's
12 designee shall also issue and serve a penalty requiring the
13 employer [~~shall be liable for~~] who violates section 386-121 to
14 pay a penalty of not less than \$500 or of \$100 for each employee
15 for every day [~~during which such failure continues,~~] the
16 employer is not in compliance, whichever sum is greater, to be
17 recovered in an action brought by the director or the director's
18 designee in the name of the State, and the amount [~~se~~] that is
19 collected shall be paid into the special compensation fund
20 created by section 386-151. [~~The director may, however, in the~~
21 director's discretion, for good cause shown, remit all or any



1 ~~part of the penalty in excess of \$500, provided that the~~
2 ~~employer in default complies with section 386-121. With respect~~
3 ~~to such actions, the attorney general or any county attorney or~~
4 ~~public prosecutor shall prosecute the same if so requested by~~
5 ~~the director.~~

6 ~~In addition, if any employer is in default under section~~
7 ~~386-121 for a period of thirty days, the employer may be~~
8 ~~enjoined, by the circuit court of the circuit in which the~~
9 ~~employer's principal place of business is located, from carrying~~
10 ~~on the employer's business anywhere in the State so long as the~~
11 ~~default continues, such action for injunction to be prosecuted~~
12 ~~by the attorney general or any county attorney if so requested~~
13 ~~by the director.] "~~

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Stop-Work Orders; Establishment; Enforcement; Penalties

Description:

Authorizes the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with certain provisions regarding security for payments of compensation to employees. Establishes penalties, enforcement, and protest procedures related to stop-work orders. (HB208 HD2)

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

