

JAN 25 2017

A BILL FOR AN ACT

RELATING TO LABOR.

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

1 SECTION 1. Chapter 388, Hawaii Revised Statutes, is
2 amended by adding five new sections to part I to be
3 appropriately designated and to read as follows:

4 "§388-A Enforcement; staff. The director shall enforce
5 the provisions of this chapter. The director may employ
6 investigators, clerks, interpreters, and other employees as
7 necessary and may assign any employee of the department to
8 assist in the enforcement of this chapter.

9 §388-B Stop-work order; failure to observe; penalties. An
10 employer or employer representative who fails to observe a stop-
11 work order issued and served upon the employer pursuant to this
12 section shall be guilty of a misdemeanor punishable by
13 imprisonment not exceeding sixty days or by a fine not exceeding
14 \$10,000, or both. Both the employer and employer representative
15 who directed employees to work in violation of the stop-work
16 order shall be held in violation of this section. The director
17 may obtain injunctive and other relief from the circuit court to



1 enforce the provisions of this chapter. The stop-work order
2 shall be effective immediately upon service of the order.

3 **§388-C Stop-work order; withdrawal; penalties remitted.**

4 The director has the discretion to withdraw a stop-work order or
5 remit all or any part of a penalty if good cause is shown;
6 provided the employer in default complies with this chapter.

7 **§388-D Enforcement; recovery of attorneys' fees and costs.**

8 The court may award reasonable attorneys' fees and costs to the
9 department in an action brought by the department to enforce the
10 provisions of this chapter, including injunctive and other
11 relief from the courts to carry out the purpose of this chapter.

12 **§388-E Stop-work order; protest. An employer may protest**

13 a stop-work order by filing a written request for a hearing with
14 the director or the director's designee within twenty days of
15 the date of service of the stop-work order. The hearing shall
16 be held within five days from the date of filing the request.

17 The director or the director's designee shall notify the
18 employer of the time and place of the hearing by mail. At the
19 conclusion of the hearing, the stop-work order may be affirmed
20 or dismissed, and within twenty-four hours after the hearing,
21 the director or the director's designee shall issue their



1 decision in writing to all parties by registered or certified
2 mail."

3 SECTION 2. Section 388-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§388-10 Penalties. (a) Civil. Any employer who fails
6 to pay wages in accordance with this chapter without equitable
7 justification shall be liable to the employee, in addition to
8 the wages legally proven to be due, for a sum equal to the
9 amount of unpaid wages and interest at a rate of six per cent
10 per year from the date that the wages were due.

11 (b) Criminal. Any employer who does not pay the wages of
12 any of the employer's employees in accordance with this chapter,
13 or any officer of any corporation who knowingly permits the
14 corporation to violate this chapter by failing to pay wages of
15 any of its employees in accordance with this chapter, or any
16 employer or the employer's agent or any officer or agent of a
17 corporation who discharges or in any other manner discriminates
18 against any employee because the employee has made a complaint
19 to the employee's employer, or to the director, or to any other
20 person that the employee has not been paid wages in accordance
21 with this chapter, or has instituted or caused to be instituted



1 any proceeding under or related to this chapter, or has
2 testified or is about to testify in any such proceedings, or any
3 employer who wilfully fails to comply with any other
4 requirements of this chapter shall be fined not less than \$100
5 nor more than \$10,000 or imprisoned for not more than one year,
6 or punished by both fine and imprisonment for each such offense.

7 (c) In addition to any other penalties provided by this
8 chapter, an employer conducting business in violation of this
9 chapter may be subject to a stop-work order issued under section
10 388-B. The director or the director's designee, in addition to
11 any other administrative remedy, may issue and serve the
12 employer an order to stop work prohibiting the use of employee
13 labor by the employer until the employer is in compliance with
14 this chapter; provided that the stop-work order does not
15 compromise or imperil public safety, or the life, health, and
16 care of vulnerable individuals. The stop-work order shall also
17 prohibit the employer from continuing to provide services by
18 conducting business using the labor from another business,
19 contractor, or subcontractor.

20 An employee affected by a work stoppage shall be paid by
21 the employer for time lost during the work stoppage, the payment



1 of which shall not exceed ten days, pending compliance by the
2 employer."

3 SECTION 3. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

INTRODUCED BY:

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S.B. NO. 854

Report Title:

Stop-Work Orders; Enforcement

Description:

Authorizes the Director of Labor and Industrial Relations or the Director's designee to issue a stop-work order to an employer, until the employer complies with Chapter 388, Hawaii Revised Statutes, relating to the payment of wages and other compensation.

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

