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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

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

1 SECTION 1. Section 371-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§371-9 Penalties.** (a) Any employer, employee, or other  
4 person who wilfully violates any lawful rule of the department  
5 for which no penalty is otherwise provided shall be fined [~~not~~  
6 no more than [~~\$250,~~ \$500, or imprisoned [~~not~~ no more than six  
7 months, or both, for each [~~such~~] offense.

8 (b) Any person who, after twenty-one days written notice  
9 and the opportunity to be heard by the director, is found to  
10 have violated any lawful rule of the department for which no  
11 penalty is otherwise provided, shall be fined [~~not~~] no more than  
12 [~~\$250~~] \$500 for each offense."

13 SECTION 2. Section 378-29.3, Hawaii Revised Statutes, is  
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) Civil. Any employer found in violation of this part  
16 shall be subject to a fine of [~~not~~] no less than [~~\$100~~] \$250 nor  
17 more than [~~\$1,000~~] \$2,500 to be collected by the director and



1 [~~such~~] the fine shall not be suspended. Each violation shall  
2 constitute a separate offense. Amounts so collected by the  
3 director shall be paid into the general fund.

4 (b) Criminal. Whoever intentionally resists, prevents,  
5 impedes, or interferes with the department or any of its agents  
6 or representatives in the performance of duties pursuant to this  
7 part, or who in any manner intentionally violates [~~the law,~~] any  
8 provision of this chapter, or rule adopted thereunder, shall be  
9 fined [~~not~~] no more than [~~\$1,000,~~] \$2,500, or imprisoned [~~not~~]  
10 no more than one year, or both."

11 SECTION 3. Section 378-65, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§378-65 Penalties for violations.** (a) A person or  
14 public employer who violates this part shall be fined [~~not~~] no  
15 less than [~~\$500~~] \$750 nor more than [~~\$5,000~~] \$7,500 for each  
16 violation.

17 (b) A civil fine [~~which~~] that is ordered pursuant to this  
18 part shall be deposited with the director of finance to the  
19 credit of the general fund of the State."

20 SECTION 4. Section 383-73, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§383-73   Penalty for delinquency; remission.   (a)   A  
2   penalty of ten per cent or [~~\$107~~] \$100, whichever is greater,  
3   shall be added to the amount of all delinquent contributions, as  
4   hereafter defined, and any delinquent contribution and penalty  
5   remaining unpaid fifteen days after the date of delinquency  
6   shall bear interest from the date of delinquency at the rate of  
7   two-thirds of one per cent for each month or fraction of a month  
8   until paid.   Any penalty and interest [~~above referred to~~]  
9   assessed pursuant to this section shall be added to the  
10   contribution and shall be collected as [~~though the same were~~] a  
11   part of the contribution.   For the purposes of this section, a  
12   contribution shall be deemed delinquent:

13           (1)   Upon a nonpayment thereof on the date prescribed for  
14                 its payment, but only in case of failure to pay a  
15                 contribution shown due by a return, or in case of  
16                 failure to file a return, or in case of failure to pay  
17                 a contribution because of a false or fraudulent  
18                 return; and

19           (2)   Upon nonpayment thereof within the time provided by  
20                 [~~paragraph~~] subsection (c) of section 383-70, in any  
21                 other case.



1        (b) Except in cases of fraud or wilful violation of this  
2 chapter, or wilful refusal to make a return [~~(but inclusion in a~~  
3 ~~return of a claim of nonliability for contributions shall not be~~  
4 ~~deemed a refusal to make a return)], the director [~~of labor and~~  
5 ~~industrial relations]~~ may, in a case of excusable failure to  
6 file a return, or pay a contribution within the time required by  
7 this chapter, or in a case of uncollectibility of the whole  
8 amount due, remit any amount of penalties or interest added to  
9 any delinquent contribution[~~. In all such cases there shall be~~  
10 ~~placed on file in the director's office a statement showing the~~  
11 ~~name of the person receiving such remission, the principal~~  
12 ~~amount of the contribution, and the period involved.]; provided  
13 that a claim of nonliability shall not be deemed as a refusal to  
14 make a return.~~~~

15        (c) The department shall keep a record of any remittance  
16 approved by the director.

17        (d) Whenever an employer makes a partial payment of a sum  
18 owed for delinquent contributions, penalties, and interest, the  
19 amount received by the director shall first be credited to  
20 interest, then to penalties, and then to principal."



1 SECTION 5. Section 385-11, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Whoever makes a false statement or representation  
4 knowing it to be false or who knowingly fails to disclose a  
5 material fact to obtain or increase any benefit or other payment  
6 under this chapter shall be fined [~~not~~] no less than [~~\$20~~] \$175  
7 nor more than [~~\$200,~~] \$1,750, or imprisoned [~~not~~] no more than  
8 [~~thirty days,~~] one year, or both."

9 SECTION 6. Section 386-27, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11 "(c) Any health care provider who fails to comply with  
12 subsections (a) and (b) may be subject to such sanctions deemed  
13 just and proper by the director which may include:

14 (1) Disallowance of fees for services rendered to an  
15 injured employee;

16 (2) Forfeiture of payments for services rendered to an  
17 injured employee under this chapter;

18 (3) Fines of [~~not~~] no more than [~~\$1,000~~] \$2,500 for each  
19 violation;

20 (4) Suspension as a qualified provider; and



1 (5) Disqualification as a provider of services under this  
2 chapter."

3 SECTION 7. Section 386-94, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§386-94 Attorneys, physicians, other health care  
6 providers, and other fees. Claims for services shall not be  
7 valid unless approved by the director or, if an appeal is had,  
8 by the [~~appellate~~] appeals board or court deciding the appeal.  
9 Any claim so approved shall be a lien upon the compensation in  
10 the manner and to the extent fixed by the director, the  
11 [~~appellate~~] appeals board, or the court.

12 In approving fee requests, the director, appeals board, or  
13 court may consider factors such as the attorney's skill and  
14 experience in state workers' compensation matters, the amount of  
15 time and effort required by the complexity of the case, the  
16 novelty and difficulty of issues involved, the amount of fees  
17 awarded in similar cases, benefits obtained for the claimant,  
18 and the hourly rate customarily awarded attorneys possessing  
19 similar skills and experience. In all cases, reasonable  
20 attorney's fees shall be awarded.



1 Any person who receives any fee, other consideration, or  
2 gratuity on account of services so rendered, without approval,  
3 in conformity with the preceding paragraph, shall be fined by  
4 the director [~~not~~] no more than [~~\$10,000.~~] \$25,000."

5 SECTION 8. Section 386-97.5, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) Any person who, after twenty-one days written notice  
8 and the opportunity to be heard by the director, is found to  
9 have violated any provision of this chapter or rule adopted  
10 thereunder for which no penalty is otherwise provided, shall be  
11 fined [~~not~~] no more than [~~\$250~~] \$500 for each offense."

12 SECTION 9. Section 386-98, Hawaii Revised Statutes, is  
13 amended by amending subsection (e) to read as follows:

14 "(e) In lieu of the criminal penalties set forth in  
15 subsection (d), any person who violates subsections (a) and (b)  
16 may be subject to the administrative penalties of restitution of  
17 benefits or payments fraudulently received under this chapter,  
18 whether received from an employer, insurer, or the special  
19 compensation fund, to be made to the source from which the  
20 compensation was received, and one or more of the following:



- 1 (1) A fine of [~~not~~] no more than [~~\$10,000~~] \$20,000 for
- 2 each violation;
- 3 (2) Suspension or termination of benefits in whole or in
- 4 part;
- 5 (3) Suspension or disqualification from providing medical
- 6 care or services, vocational rehabilitation services,
- 7 and all other services rendered for payment under this
- 8 chapter;
- 9 (4) Suspension or termination of payments for medical,
- 10 vocational rehabilitation and all other services
- 11 rendered under this chapter;
- 12 (5) Recoupment by the insurer of all payments made for
- 13 medical care, medical services, vocational
- 14 rehabilitation services, and all other services
- 15 rendered for payment under this chapter; and
- 16 (6) Reimbursement of attorney's fees and costs of the
- 17 party or parties defrauded."

18 SECTION 10. Section 387-7, Hawaii Revised Statutes, is  
 19 amended to read as follows:

20 "§387-7 Wilful violations; penalty. Any employer who  
 21 wilfully hinders or delays the director [~~of labor and industrial~~





1 ~~relations]~~ or the director's authorized representative in the  
 2 performance of the director's duties in the enforcement of this  
 3 chapter; or who wilfully refuses to admit the director or the  
 4 director's authorized representative to any place of employment;  
 5 or who fails to keep or who falsifies any record required under  
 6 section 387-6 or who refuses to make [~~such~~] the records  
 7 accessible or to give information required for the proper  
 8 enforcement of this chapter, upon demand, to the director or the  
 9 director's authorized representative shall be fined [~~not~~] no  
 10 more than [~~\$500~~] \$10,000, or imprisoned [~~not~~] no more than  
 11 ninety days, or both."

12 SECTION 11. Section 387-12, Hawaii Revised Statutes, is  
 13 amended by amending subsection (a) to read as follows:

14 "(a) Criminal.

15 (1) Any person divulging information in violation of  
 16 section 387-8;

17 (2) Any employer who wilfully violates this chapter or of  
 18 any rule, regulation, or order issued under the  
 19 authority of this chapter;

20 (3) Any employer or the employer's agent or any officer or  
 21 agent of a corporation who discharges or in any other



1 manner discriminates against any employee because the  
 2 employee has made a complaint to the employee's  
 3 employer, to the director, or to any other person that  
 4 the employee has not been paid wages in accordance  
 5 with this chapter, or has instituted or caused to be  
 6 instituted any proceeding under or related to this  
 7 chapter, or has testified or is about to testify in  
 8 any such proceedings; or

9 (4) Any employer or the employer's agent or any officer or  
 10 agent of a corporation who pays or agrees to pay any  
 11 employee compensation less than that which the  
 12 employee is entitled to under this chapter,  
 13 shall be guilty of a misdemeanor and, upon conviction thereof,  
 14 shall be punished by a fine of [~~not~~] no less than [~~\$50~~] \$500 nor  
 15 more than [~~\$500~~] \$5,000, or by imprisonment for a period not to  
 16 exceed one year, or by both [~~such~~] fine and imprisonment."

17 SECTION 12. Section 388-52, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 "[~~+~~]§388-52[~~+~~] Penalties. Any employer found in violation  
 20 of section 388-51 shall be subject to a fine of [~~not~~] no less  
 21 than [~~\$100~~] \$250 nor more than [~~\$1,000~~] \$2,500 to be collected



1 by the director and [~~such~~] the fine shall not be suspended.  
2 Each violation shall constitute a separate offense. Amounts so  
3 collected by the director shall be paid into the general fund."

4 SECTION 13. Section 392-68, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~f~~]**§392-68**[~~t~~] **Failure to pay assessments.** If an employer  
7 or insurer fails to pay the assessment required by section 392-  
8 67(a) or section 392-67(b) within thirty days after the end of  
9 the month or quarter for which payment was due, the director  
10 shall levy a penalty of at least [~~\$10~~] \$250 but no more than ten  
11 per cent of the assessment due against [~~such~~] the employer or  
12 insurer, unless the nonpayment is excused by the director after  
13 a showing by [~~such~~] the employer or insurer that the payment of  
14 the assessment could not be made on the date prescribed therefor  
15 owing to conditions over which the employer or insurer had no  
16 control and [~~such~~] the employer or insurer forthwith complies."

17 SECTION 14. Section 392-69, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§392-69 Request for wage and employment information.** An  
20 employer to whom the department has sent a request for wage and  
21 employment information for an employee claiming benefits against



1 the trust fund for disability benefits, shall complete and file  
 2 such information within seven days from date the request was  
 3 sent. If an employer fails to file such information in seven  
 4 days, the director shall levy a penalty of [~~not more than \$10~~  
 5 \$250 for each delinquent request, unless the failure to file  
 6 such information is excused by the director after a showing by  
 7 [~~such~~] the employer that such filing could not be made on the  
 8 prescribed date therefor owing to conditions over which the  
 9 employer had no control."

10 SECTION 15. Section 392-92, Hawaii Revised Statutes, is  
 11 amended by amending subsection (a) to read as follows:

12 "(a) Any person who, after twenty-one days written notice  
 13 and the opportunity to be heard by the director, is found to  
 14 have violated any provision of this chapter or rule adopted  
 15 thereunder for which no penalty is otherwise provided, shall be  
 16 fined [~~not~~] no more than [~~\$250~~] \$500 for each offense."

17 SECTION 16. Section 392-101, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 "[~~†~~]**\$392-101[†]** **Limitation of fees.** Any individual  
 20 claiming benefits in any proceeding before the department or the  
 21 referee may be represented by counsel or other duly authorized



1 agent; but no such counsel or agent shall either charge or  
2 receive for such services more than an amount approved by the  
3 department or referee, and such amount shall in no case exceed  
4 ten per cent of the total amount of benefits received as a  
5 result of such proceeding. Any person who violates this section  
6 shall, for each such offense, be fined [~~not~~] no less than [~~\$50~~]  
7 \$325 nor more than [~~\$500~~] \$3,250, or imprisoned [~~not~~] no more  
8 than six months, or both."

9 SECTION 17. This Act does not affect rights and duties  
10 that matured, penalties that were incurred, and proceedings that  
11 were begun before its effective date.

12 SECTION 18. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 19. This Act shall take effect upon its approval.



**Report Title:**

Department of Labor and Industrial Relations; Assessments;  
Violations

**Description:**

Updates various assessments and penalties under DLIR's jurisdiction by revising the monetary assessments according to changes in the Consumer Price Index. Takes effect on its approval. (SD1)

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

