
A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

1 PART I

2 SECTION 1. The purpose of this Act is to:

- 3 (1) Transfer the state fire council, for administrative
4 purposes, from the department of labor and industrial
5 relations to the department of commerce and consumer
6 affairs;
- 7 (2) Transfer authority over the boiler and elevator safety
8 law from the department of labor and industrial
9 relations to the department of commerce and consumer
10 affairs; and
- 11 (3) Transfer administration of the human trafficking
12 victim services fund from the department of labor and
13 industrial relations to the judiciary.

14 PART II

15 SECTION 2. Section 132-16, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:



1 "(a) There is established a state fire council which shall
2 be placed within the department of [~~labor and industrial~~
3 ~~relations~~] commerce and consumer affairs for administrative
4 purposes. The state fire council shall consist of the fire
5 chiefs of the counties. The state fire council may appoint an
6 advisory committee to assist it in carrying out its functions
7 under this chapter. The advisory committee may include the
8 heads of the various county building departments, a licensed
9 architect recommended by the Hawaii Society of the American
10 Institute of Architects, a licensed electrical engineer and a
11 licensed mechanical engineer recommended by the Consulting
12 Engineers Council of Hawaii, a representative of the Hawaii
13 Rating Bureau, a representative of the Hawaii firefighters
14 association, representatives of the county fire departments, and
15 such other members of the public as the state fire council may
16 determine can best assist it. The state fire council shall
17 elect a chairperson from among its members."

18 SECTION 3. Section 132-18, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The budgetary requirements for conducting meetings
21 and other related functions of the state fire council, including



1 the salaries of the administrator and administrative assistant,
2 shall be included in the budget of the department of [~~labor and~~
3 ~~industrial relations.~~] commerce and consumer affairs."

4 SECTION 4. All rights, powers, functions, and duties of
5 the department of labor and industrial relations relating to the
6 state fire council are transferred to the department of commerce
7 and consumer affairs.

8 All employees who occupy civil service positions and whose
9 functions are transferred to the department of commerce and
10 consumer affairs by this part shall retain their civil service
11 status, whether permanent or temporary. Employees shall be
12 transferred without loss of salary, seniority (except as
13 prescribed by applicable collective bargaining agreements),
14 retention points, prior service credit, any vacation and sick
15 leave credits previously earned, and other rights, benefits, and
16 privileges, in accordance with state personnel laws and this
17 part; provided that the employees possess the minimum
18 qualifications and public employment requirements for the class
19 or position to which transferred or appointed, as applicable;
20 provided further that subsequent changes in status may be made
21 pursuant to applicable civil service and compensation laws.



1 Any employee who, prior to this Act, is exempt from civil
2 service and is transferred as a consequence of this part may
3 retain the employee's exempt status, but shall not be appointed
4 to a civil service position as a consequence of this part. An
5 exempt employee who is transferred by this part shall not suffer
6 any loss of prior service credit, vacation or sick leave credits
7 previously earned, or other employee benefits or privileges as a
8 consequence of this part; provided that the employees possess
9 legal and public employment requirements for the position to
10 which transferred or appointed, as applicable; provided further
11 that subsequent changes in status may be made pursuant to
12 applicable employment and compensation laws. The director of
13 commerce and consumer affairs may prescribe the duties and
14 qualifications of these employees and fix their salaries without
15 regard to chapter 76, Hawaii Revised Statutes.

16 SECTION 5. All appropriations, records, equipment,
17 machines, files, supplies, contracts, books, papers, documents,
18 maps, and other personal property heretofore made, used,
19 acquired, or held by the department of labor and industrial
20 relations relating to the functions transferred to the



1 department of commerce and consumer affairs shall be transferred
2 with the functions to which they relate.

3 PART III

4 SECTION 6. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER

8 BOILER AND ELEVATOR SAFETY LAW

9 § -1 **Short title.** This chapter shall be known as the
10 "Boiler and Elevator Safety Law".

11 § -2 **Findings and purpose.** The legislature finds that
12 the Hawaii occupational safety and health law does not
13 adequately provide for the safe operation and use of boilers,
14 pressure systems, amusement rides, and elevators and kindred
15 equipment. The purpose of this law is to assure the safe
16 operation and use of such apparatus in Hawaii.

17 § -3 **Definitions.** As used in this chapter:

18 "Appeals board" means the boiler and elevator safety
19 appeals board established by section -10.

20 "Boiler" means a closed vessel in which water or other
21 liquid is heated, steam or vapor is generated, steam or vapor is



1 superheated, or any combination thereof under pressure for use
2 external to itself, by the direct application of energy from the
3 combustion of fuels, or from electricity or solar energy.

4 "Contractor" means any person, firm, or corporation
5 installing, repairing, or servicing and responsible for the safe
6 operation of any boiler, pressure system, amusement ride, or
7 elevator and kindred equipment or structure inspected pursuant
8 to this chapter.

9 "Department" means the department of commerce and consumer
10 affairs.

11 "Director" means the director of commerce and consumer
12 affairs.

13 "Elevator" means a hoisting and lowering mechanism
14 permanently installed in a structure, designed to carry
15 passengers or authorized personnel, equipped with a car or
16 platform which moves in fixed guides and serves two or more
17 fixed landings.

18 "Elevators and kindred equipment" means elevators,
19 escalators, dumbwaiters, moving walks, stage lifts, inclined
20 lifts, personnel hoists, permanently installed material lifts,



1 and any other similar mechanized equipment used to convey people
2 in places other than a public right-of-way.

3 "National Board" means the National Board of Boiler and
4 Pressure Vessel Inspectors.

5 "Owner" means any person, firm, or corporation with legal
6 title to any boiler, pressure system, amusement ride, or
7 elevator and kindred equipment inspected pursuant to this
8 chapter who may or may not be the user.

9 "Pressure piping" means piping systems specified in the
10 American Society of Mechanical Engineers Power Piping
11 Code B31.1.

12 "Pressure system" means either a pressure vessel or
13 pressure piping as defined in this section.

14 "Pressure vessel" means a closed vessel in which pressure
15 is obtained from an external source or by the direct application
16 of heat from a direct or indirect source.

17 "User" means any person, firm, or corporation legally in
18 possession and responsible for the safe operation of any boiler,
19 pressure system, amusement ride, or elevator and kindred
20 equipment inspected pursuant to this chapter.



1 "Vendor" means any person, firm, or corporation that sells
2 or distributes any boiler, pressure system, amusement ride, or
3 elevator and kindred equipment required to be inspected pursuant
4 to this chapter.

5 **§ -4 Powers and duties.** (a) Administration.

6 (1) The department shall establish a boiler and elevator
7 inspection branch for the enforcement of the rules
8 adopted under this chapter and other duties as
9 assigned;

10 (2) The department shall:

11 (A) Implement and enforce the requirements of this
12 chapter; and

13 (B) Keep adequate and complete records of the type,
14 size, location, identification data, and
15 inspection findings for boilers, pressure
16 systems, amusement rides, and elevators and
17 kindred equipment required to be inspected
18 pursuant to this chapter;

19 (3) The department shall formulate definitions and adopt
20 and enforce standards and rules pursuant to chapter 91
21 that may be necessary for carrying out this chapter;



1 (4) Emergency temporary standards may be adopted without
2 conforming to chapter 91 and without hearings to take
3 immediate effect upon giving public notice of the
4 emergency temporary standards or upon another date
5 that may be specified in the notice. An emergency
6 temporary standard may be adopted, if the director
7 determines:

8 (A) That the public or individuals are exposed to
9 grave danger from exposure to hazardous
10 conditions or circumstances; and

11 (B) That the emergency temporary standard is
12 necessary to protect the public or individuals
13 from danger.

14 Emergency temporary standards shall be effective until
15 superseded by a standard adopted under chapter 91, but
16 shall not be effective longer than six months;

17 (5) Variances from standards adopted under this chapter
18 may be granted upon application of an owner, user,
19 contractor, or vendor. Application for variances
20 shall correspond to procedures set forth in the rules
21 adopted pursuant to this chapter. The director may



1 issue an order for variance, if the director
2 determines that the proponent of the variance has
3 demonstrated that the conditions, practices, means,
4 methods, operations, or processes used or proposed to
5 be used will provide substantially equivalent safety
6 as that provided by the standards;

7 (6) Permits.

8 (A) The department shall issue a "permit to operate"
9 regarding any boiler, pressure system, amusement
10 ride, or elevator and kindred equipment if found
11 to be safe in accordance with rules adopted
12 pursuant to chapter 91;

13 (B) The department may immediately revoke any "permit
14 to operate" of any boiler, pressure system,
15 amusement ride, or elevator and kindred equipment
16 found to be in an unsafe condition or where a
17 user, owner, or contractor ignores prior
18 department orders to correct specific defects or
19 hazards and continues to use or operate the
20 aforementioned apparatus without abating the
21 hazards or defects;



1 (C) The department shall reissue a "permit to
2 operate" to any user, owner, or contractor who
3 demonstrates that the user, owner, or contractor
4 is proceeding in good faith to abate all
5 nonconforming conditions mentioned in department
6 orders and the boilers, pressure systems,
7 amusement rides, and elevators and kindred
8 equipment are safe to operate; and

9 (D) The department shall establish criteria for the
10 periodic reinspection and renewal of the permits
11 to operate, and may provide for the issuance of
12 temporary permits to operate while any
13 noncomplying boiler, pressure system, amusement
14 ride, and elevator and kindred equipment are
15 being brought into full compliance with the
16 applicable standards and rules adopted pursuant
17 to this chapter; provided that the period between
18 an initial safety inspection or the inspection
19 used as a basis for the issuance of a permit to
20 operate, and any subsequent inspection of



1 elevators and kindred equipment shall not exceed
2 one year;

3 (7) No person shall operate a boiler, pressure system,
4 amusement ride, or elevator and kindred equipment that
5 are required to be inspected by this chapter or by any
6 rule adopted pursuant to this chapter, except as
7 necessary to install, repair, or test, unless a permit
8 to operate has been authorized or issued by the
9 department and remains valid; and

10 (8) The department, upon the application of any owner,
11 user, or other person affected thereby, may grant time
12 that may reasonably be necessary for compliance with
13 any order. Any person affected by an order may for
14 cause petition the department for an extension of
15 time.

16 (b) Inspection and investigation.

17 (1) Authorized representatives of the director shall have
18 the right to enter without delay during regular
19 working hours and at other reasonable times any place,
20 establishment, or premises in which are located
21 boilers, pressure systems, amusement rides, or



1 elevators and kindred equipment requiring inspection
2 pursuant to this chapter;

3 (2) The department shall inspect for the purpose of
4 ensuring compliance with the purposes and provisions
5 of this chapter any activity related to the erection,
6 construction, alteration, demolition, or maintenance
7 of buildings, structures, bridges, highways, roadways,
8 dams, tunnels, sewers, underground buildings or
9 structures, underground pipelines or ducts, and other
10 construction projects or facilities;

11 (3) The department shall review plans and make
12 inspections, and investigations of boilers and
13 pressure systems, and the premises appurtenant to each
14 at times and at intervals determined by the director
15 for the purpose of ensuring compliance with the
16 purposes and provisions of this chapter. This
17 paragraph shall not apply to single family dwellings
18 or multiple dwelling units of less than six living
19 units;

20 (4) The department shall review plans and make
21 inspections, and investigations of elevators and



1 kindred equipment and the premises appurtenant to each
2 at times and at intervals determined by the director
3 for the purpose of ensuring compliance with the
4 purposes and provisions of this chapter. This

5 paragraph shall not apply to single family dwellings;

6 (5) The department shall inspect, at least semi-annually,
7 all mechanically or electrically operated devices
8 considered as major rides and used as amusement rides
9 at a carnival, circus, fair, or amusement park for the
10 purpose of protecting the safety of the public. This
11 paragraph shall not apply to any coin operated ride or
12 mechanically or electrically operated devices
13 considered or known in the amusement trade as kiddie
14 rides;

15 (6) The department may investigate accidents involving
16 boilers, pressure systems, amusement rides, and
17 elevators and kindred equipment inspected under this
18 chapter and may issue orders and recommendations with
19 respect to the elimination and control of the cause
20 factors;



1 (7) The department shall have the right to question any
2 employer, owner, operator, agent, or employee in
3 investigation, enforcement, and inspection activities
4 covered by this chapter; and

5 (8) Any employee of the State acting within the scope of
6 the employee's office, employment, or authority under
7 this chapter shall not be liable in or made a party to
8 any civil action arising out of the administration and
9 enforcement of this chapter.

10 (c) Education and training.

11 (1) The department may disseminate through exhibitions,
12 pictures, lectures, pamphlets, letters, notices, and
13 any other method of publicity, to owners, users,
14 vendors, architects, contractors, employees, and the
15 public information regarding boilers, pressure
16 systems, amusement rides, and elevators and kindred
17 equipment required to be inspected pursuant to this
18 chapter; and

19 (2) Where appropriate, the department may undertake
20 programs in training and consultation with owners,
21 users, property management firms, vendors, architects,



1 contractors, employees, and the public regarding the
2 safety requirements of this chapter and the rules
3 adopted pursuant to this chapter.

4 (d) Enforcement.

5 (1) Whenever right of entry to a place to inspect any
6 boiler, pressure system, amusement ride, or elevator
7 and kindred equipment required by this chapter to be
8 inspected is refused to an authorized representative
9 of the director, the department may apply to the
10 circuit court where the place is located for a search
11 warrant providing on its face that the wilful
12 interference with its lawful execution may be punished
13 as a contempt of court;

14 (2) Whenever the department finds that the construction of
15 or the operation of any boiler, pressure system,
16 amusement ride, or elevator and kindred equipment
17 required to be inspected by this chapter is not safe,
18 or that any practice, means, method, operation, or
19 process employed or used is unsafe or is not in
20 conformance with the rules adopted pursuant to this
21 chapter, the department shall issue an order to render



1 the construction or operation safe or in conformance
2 with this chapter or the rules and deliver the order
3 to the contractor, owner, or user. Each order shall
4 be in writing and may be delivered by mail or in
5 person. The department may in the order direct that,
6 in the manner and within a time specified, any
7 additions, repairs, improvements, or changes be made
8 and safety devices and safeguards be furnished,
9 provided, and used as are reasonably required to
10 ensure compliance with the purposes and provisions of
11 this chapter. The owner, user, or contractor shall
12 obey and observe all orders issued by the department
13 or be subject to appropriate civil penalties;

14 (3) Whenever in the opinion of the department the
15 condition or operation of boilers, pressure systems,
16 amusement rides, or elevators and kindred equipment
17 required to be inspected by this chapter, or any
18 practice, means, method, operation, or process
19 employed or used, is unsafe, or is not properly
20 guarded or is dangerously placed, the use thereof may
21 be prohibited by the department and an order to that



1 effect shall be posted prominently on the equipment,
2 or near the place or condition referred to in the
3 order. The order shall be removed when a
4 determination has been made by an authorized
5 representative of the department that the boilers,
6 pressure systems, amusement rides, or elevators and
7 kindred equipment are safe and the required safeguards
8 or safety devices are provided;

9 (4) When in the opinion of the department the operation of
10 boilers, pressure systems, amusement rides, or
11 elevators and kindred equipment required to be
12 inspected by this chapter or any practice, means,
13 method, operation, or process employed or used
14 constitutes an imminent hazard to the life or safety
15 of any person or property, the department may apply to
16 the circuit court of the circuit in which the boilers,
17 pressure systems, amusement rides, or elevators and
18 kindred equipment are located or the practice, means,
19 method, operation, or process is employed for an
20 injunction restraining the use or operation until the
21 use or operation is made safe. The application to the



1 circuit court accompanied by an affidavit showing that
2 the use or operation exists in violation of a
3 standard, rule, variance, or order of the department
4 and constitutes an imminent hazard to the life or
5 safety of any person or property and accompanied by a
6 copy of the standard, rule, variance, or applicable
7 order, shall warrant, in the discretion of the court,
8 the immediate granting of a temporary restraining
9 order. No bond shall be required from the department
10 as a prerequisite to the granting of a restraining
11 order;

12 (5) The director and the director's authorized
13 representative shall have the same powers respecting
14 the administering of oaths, compelling the attendance
15 of witnesses, the production of documentary evidence,
16 and examining or causing to be examined witnesses as
17 are possessed by the court and may take depositions
18 and certify to official acts. The circuit court of
19 any circuit, upon application by the director, shall
20 have the power to enforce by proper proceedings the
21 attendance and testimony of any witness so subpoenaed.



1 Subpoena and witness fees and mileage in such cases
2 shall be the same as in criminal cases in the circuit
3 courts. Necessary expenses of, or in connection with,
4 the hearings or investigations shall be payable from
5 the funds appropriated for expenses of administration
6 of the department. No person shall be excused from
7 attending or testifying or producing materials, books,
8 papers, correspondences, memoranda, and other records
9 before the director or in obedience to subpoena on the
10 grounds that the testimony or evidence, documentary or
11 otherwise, required of the person may tend to
12 incriminate the person or subject the person to a
13 penalty or forfeiture; but no individual shall be
14 prosecuted or subjected to any penalty or forfeiture
15 for or on account of any transaction, matter, or thing
16 concerning which the individual is compelled, after
17 having claimed the individual's privilege against
18 self-incrimination, to testify or produce evidence,
19 documentary, or otherwise, except that the individuals
20 testifying shall not be exempt from prosecution and
21 punishment for perjury committed while testifying;



1 (6) Where a condition or practice involving any boiler,
2 pressure system, amusement ride, or elevator and
3 kindred equipment required to be inspected by this
4 chapter could reasonably be expected to cause death or
5 serious physical harm, the department shall have the
6 right, independent of any other enforcement powers
7 under this chapter, to:

8 (A) Immediately take steps to obtain abatement by
9 informing the owners, users, contractors, and all
10 persons in harms way of the hazard by meeting,
11 posted notice, or otherwise;

12 (B) Take steps to immediately obtain abatement
13 through direct control or elimination of the
14 hazard if after reasonable search, the user,
15 owner, or contractor or their representative is
16 not available;

17 (C) Take steps to obtain immediate abatement when the
18 nature and imminence of the danger or hazard does
19 not permit a search for the owner, user, or
20 contractor; and



(D) Where appropriate, initiate necessary legal proceedings to require abatement by the owner, user, or contractor; and

(7) The department may prosecute, defend, and maintain actions in the name of the department for the enforcement of the provisions of this chapter, including the enforcement of any order issued by it, the appeal of any administrative or court decision, and other actions necessary to enforce this chapter.

§ -5 Fees. (a) The director may prescribe reasonable fees to be charged for inspection, examination, and other services rendered, and for permits, certificates, or licenses, the issuance of which are required by this chapter or by any rules of the department adopted pursuant to this chapter, and for:

(1) Inspections by the department of any boiler, pressure system, amusement ride, and elevator and kindred equipment for which a permit or certificate is required for its installation, operation, or use, and which is required to be inspected by this chapter or by any rules of the department; and



1 (2) Examination of any person applying for permits,
2 certificates, or licenses as required by this chapter
3 or by any rules of the department.

4 (b) All fees received by the department pursuant to this
5 section shall be paid into the boiler and elevator revolving
6 fund.

7 (c) The fees for inspections, permits, and examinations of
8 boilers, pressure systems, elevators, kindred equipment, and
9 amusement rides shall be as prescribed by the schedules in this
10 section; provided that the director may adopt rules pursuant to
11 chapter 91 to amend the fees specified in this section.

12

13 SCHEDULE A: Boiler and Pressure System Fees

14 Installation, Repair, and Alteration Permit Fees:

15 (1) Power boilers (shall pass a hydrostatic test unless
16 indicated otherwise):

17 Miniature electric (no hydrostatic test

18 required) \$190

19 Less than 500 square feet of heating

20 surface \$250

21 Greater than or equal to 500 and less



1	than or equal to 3,000 square feet of	
2	heating surface	\$400
3	Greater than 3,000 square feet of heating	
4	surface	\$750
5	(2) Heating boiler	\$190
6	Retrofit	\$160
7	(3) Pressure vessel	\$175
8	Retrofit	\$130
9	(4) Sterilizers and steam kettles	\$150
10	Retrofit	\$110
11	(5) Repair application fee	\$200
12	(6) Alteration application fee	\$500
13	Examination and License Fees:	
14	(1) Boiler inspectors certificate of competency	
15	examination fee	\$300
16	(2) Review of shops and facilities for the	
17	issuance of National Board or American	
18	Society of Mechanical Engineers	
19	certificate of authorization	\$1,500
20	(3) Review of shops and facilities for the	
21	issuance of Non-Boiler External Piping	



1	certificate of authorization	\$750
2	(4) Boiler inspector's Hawaii commission,	
3	initial and renewal	\$75
4	Internal and External Inspection Fees:	
5	(1) Power boilers:	
6	Without manholes	\$150
7	With manholes but less than or equal to	
8	3,000 square feet of heating surface	\$180
9	With manholes greater than 3,000 and less	
10	than or equal to 10,000 square feet of	
11	heating surface	\$260
12	With manholes and over 10,000 square	
13	feet of heating surface	\$450
14	(2) Heating boilers:	
15	Hot water supply	\$130
16	Steam and water heating without manholes	\$110
17	Steam, over 100 square feet but not over	
18	500 square feet of heating surface	\$140
19	All with manholes and steam over 500	
20	square feet of heating surface	\$170
21	(3) Pressure vessels:	



1	Routine inspections	\$65
2	Internal for air or water service	\$130
3	Ultrasonic testing	\$130
4	(4) For all other types of inspections	
5	an hourly fee is assessed	\$100
6	(5) Hydrostatic test	\$300
7	(6) School "specials" (non-code objects)	\$10
8	Reports and Permit Processing Fees:	
9	(1) Report and permit	\$25
10	(2) Permit reprint	\$20
11	(3) Signed permit card (old issue)	\$10
12	(4) Owner portal	\$5
13		
14	SCHEDULE B: Elevator and Kindred Equipment Fees	
15	Installation and Alteration Permits:	
16	(1) Alteration involving only the replacement of	
17	up to two parts (such as a valve, a jack,	
18	or a cylinder)	\$150
19	(2) Alteration involving only cosmetic changes	
20	(such as car interior modernizations)	\$300
21	(3) Alterations of more than two parts,	



1	components, or subsystems:	
2	1 - 3 floors	\$600
3	4 - 9 floors	\$650
4	10 - 19 floors	\$700
5	20 - 29 floors	\$750
6	30 - 39 floors	\$800
7	40 or more floors	\$900
8	(4) Where alterations to four or more units at	
9	the same location are identical, the fee for	
10	each additional alteration permit shall be	
11	reduced by fifty per cent. The applications	
12	must be submitted at the same time to qualify	
13	for the fee reduction.	
14	(5) Installation of new elevators (including material	
15	lifts) and kindred equipment:	
16	Dumbwaiter	\$500
17	Escalator, moving walk, or moving ramp	\$500
18	Hand elevator or stage lift	\$500
19	Wheelchair or stairway lifts	\$500
20	Elevator, 1 - 3 floors	\$600
21	Elevator, 4 - 9 floors	\$650



1	Elevator, 10 - 19 floors	\$700
2	Elevator, 20 - 29 floors	\$750
3	Elevator, 30 - 39 floors	\$800
4	Elevator, 40 or more floors	\$900
5	Personnel hoists	\$250
6	Inclined tunnel lifts	\$500
7	(For elevators, such as observation or deep	
8	well elevators, which have considerable rise	
9	but few openings, each ten feet of vertical	
10	rise shall be considered one floor for the	
11	purpose of determining installation or	
12	alteration permit fees.)	
13	(6) Temporary use permits (construction car)	\$450
14	(7) For each valid alteration or installation	
15	permit, the department shall provide one	
16	inspection per unit.	
17	(8) The fee for each additional inspection or	
18	witnessing of tests, or both, shall be \$300	
19	per day for up to two hours and \$600 per day	
20	for more than two hours if during the normal	
21	workday. Fees for overtime hours shall	



1 be \$600 per day for up to two hours and

2 \$1,200 per day for more than two hours.

3 (9) Each installation or alteration permit

4 shall be valid for up to one year from date

5 of issuance.

6 Inspection Fees:

7 (1) Permit renewal inspection fees:

8 Dumbwaiter \$140

9 Escalator, moving walk, or moving ramp \$150

10 Hand elevator or stage lift \$150

11 Wheelchair or stairway lifts \$150

12 Hydraulic elevator - holed \$150

13 Hydraulic elevator - holeless \$200

14 Traction elevator:

15 1 - 3 floor rise \$225

16 4 - 9 floor rise \$250

17 10 - 19 floor rise \$275

18 20 - 29 floor rise \$325

19 30 - 39 floor rise \$400

20 40 or more floor rise \$475

21 Personnel hoists \$175



1	Inclined tunnel lifts	\$220
2	(2) Safety, load or internal test (witness fees):	
3	3-year safety test	\$200
4	5-year safety test	\$300
5	Escalator internal	\$100
6	(3) Permit renewal and witness fees are per	
7	inspection, which may constitute one day or	
8	part of the day. If the inspector is required	
9	to return on another day or at another time	
10	on the same day, additional fees shall be	
11	assessed at the rate of \$300 per day for up	
12	to two hours and \$600 per day for more than	
13	two hours. Fees for overtime hours shall be	
14	\$600 per day for up to two hours and \$1,200	
15	per day for more than two hours.	

17 SCHEDULE C: Amusement Ride Fees

18 Inspection Fees:

19 (1) Permit renewal inspection fees:

20	Amusement ride	\$100
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21 (2) Permit renewal fees are per inspection,



1 which may constitute one day or part of the
2 day. If the inspector has to return on
3 another day or at another time within the
4 same day, additional fees shall be assessed
5 at the rate of \$300 per day for up to two hours
6 and \$600 per day for more than two hours. Fees
7 for overtime hours shall be \$600 per day for up
8 to two hours and \$1,200 per day for more than
9 two hours.

10 **§ -6 Safety inspection by qualified inspectors. (a)**

11 All safety inspections required under this chapter of boilers
12 and pressure systems shall be performed by deputy boiler
13 inspectors in the employ of the department who are qualified
14 boiler inspectors and, when authorized by the director, may be
15 performed by special inspectors who are qualified boiler
16 inspectors in the employ of insurance companies insuring boilers
17 or pressure systems in this State.

18 (b) A qualified boiler inspector is a person eligible for
19 or in possession of a valid commission issued by the National
20 Board, who has satisfied the requirements established by the
21 department, and who has received from the director or the



1 director's authorized agent briefings and instructions regarding
2 the rules pertaining to boilers and pressure systems in this
3 State.

4 (c) All safety inspections required under this chapter of
5 elevators and kindred equipment shall be performed by deputy
6 elevator inspectors of the department who are qualified elevator
7 inspectors and who are employed primarily for purposes of
8 elevator and related inspection work.

9 (d) A qualified elevator inspector is a person who meets
10 the criteria of the American Society of Mechanical Engineers and
11 the standards for the qualification of elevator inspectors of
12 the American National Standards Institute and has satisfied
13 requirements established by the department.

14 **§ -7 Complaints to the department.** (a) Complaints may
15 be made to the department and where reasonable grounds exist for
16 the department to believe there may be a hazard, there shall be
17 an inspection in response to the complaint.

18 (b) Names of all complainants and witnesses shall be held
19 in confidence by the department unless prior permission has been
20 given by the complainant or witness to release the complainant's
21 or witness' name or unless it has been determined by the



1 attorney general that disclosure is necessary for enforcement
2 and review of this chapter.

3 **§ -8 Violations and penalties.** (a) The director shall
4 have authority to assess all civil penalties provided in this
5 section, giving due consideration to the appropriateness of the
6 penalty with respect to the gravity of the violation, the good
7 faith of the owner, user, contractor, or vendor, and the history
8 of previous violations.

9 (b) Any owner, user, contractor, or vendor who violates
10 this chapter, or any safety standard promulgated hereunder or
11 any rule issued under the authority of this chapter, or who
12 violates or fails to comply with any order made under or by
13 virtue of this chapter or under or by virtue of any rule of the
14 department, or who defaces, displaces, destroys, damages, or
15 removes without the authority of the department any safety
16 device, safeguard, notice, order, or warning required by this
17 chapter or by any rule of the department shall be assessed a
18 civil penalty of not more than \$10,000 for each such violation.

19 (c) Each day a violation continues shall constitute a
20 separate violation except during an abatement period.



1 (d) Whoever knowingly makes any false statement,
2 representation, or certification in any application, record,
3 report, plan or other document filed or required to be
4 maintained pursuant to this chapter, shall, upon conviction, be
5 punished by a fine of not more than \$10,000, or by imprisonment
6 for not more than six months, or by both.

7 (e) Civil penalties owed under this chapter shall be paid
8 to the department and deposited into the general fund. Civil
9 penalties owed under this chapter may be recovered in a civil
10 action in the name of the department and the State brought in
11 the district or circuit court for the circuit where the
12 violation is alleged to have occurred or where the owner, user,
13 contractor, or vendor has the owner's, user's, contractor's, or
14 vendor's principal office.

15 (f) Criminal offenses committed against any employee of
16 the State acting within the scope of the employee's office,
17 employment, or authority under this chapter shall be subject to
18 the penalties set forth in the Hawaii Penal Code provided that:

19 (1) Ten years shall be added to the maximum term of
20 imprisonment (unless life imprisonment is imposed) and



1 \$10,000 shall be added to the maximum fine imposed for
2 conviction under a class A felony.

3 (2) Five years shall be added to the maximum term of
4 imprisonment and \$5,000 shall be added to the maximum
5 fine imposed for conviction under a class B felony.

6 (3) Three years shall be added to the maximum term of
7 imprisonment and \$1,000 shall be added to the maximum
8 fine for conviction under a class C felony.

9 (4) One year shall be added to the maximum term of
10 imprisonment and \$500 shall be added to the maximum
11 fine for conviction for a misdemeanor.

12 (5) The maximum term of imprisonment and maximum fines
13 prescribed for misdemeanors under the Hawaii Penal
14 Code shall apply to convictions for a petty
15 misdemeanor.

16 § -9 **Review and appeal.** Any order of the director shall
17 be final and conclusive against the owner, user, vendor, or
18 contractor unless the owner, user, vendor, or contractor files
19 with the director a written notice of contest of the order, the
20 abatement period stated in the order, or the penalty stated in
21 the order within twenty days after receipt of such order.



1 The owner, user, vendor, or contractor may petition the
2 director for modification of the abatement requirements in an
3 order. The owner, user, vendor, or contractor shall file the
4 petition no later than the close of the next business day
5 following the date on which abatement is required or under
6 exceptional circumstances and for good cause shown at a later
7 date. The petition for modification may be filed after the
8 twenty-day period for contesting the order has expired where the
9 initial abatement period stated in the order expires after the
10 twenty-day period for filing a notice of contest has run.

11 The director shall issue an order either affirming or
12 modifying the abatement requirement. The director may issue an
13 order modifying the abatement requirement upon a showing by the
14 owner, user, vendor, or contractor of a good faith effort to
15 comply with the abatement requirements of an order and that
16 abatement has not been completed because of factors beyond the
17 owner's, user's, vendor's, or contractor's reasonable control.

18 The director shall advise the appeals board of a notice of
19 contest upon receiving any such notice.

20 The appeals board shall afford an opportunity for a hearing
21 on any notice of contest. Such hearings before the appeals



1 board shall be de novo except where rules and regulations
2 require a prior formal hearing at the department level, the
3 proceedings of which are required to be transcribed, in which
4 case review before the appeals board shall be confined to the
5 record only.

6 The appeals board may affirm, modify, or vacate the order
7 or continue the matter upon such terms and conditions as may be
8 deemed necessary, or remand the case to the director with
9 instructions for further proceedings or direct such other relief
10 as may be appropriate.

11 § -10 **Boiler and elevator safety appeals board.** (a)

12 There is created a boiler and elevator safety appeals board
13 composed of three members nominated and, by and with the advice
14 and consent of the senate, appointed by the governor for
15 staggered terms in accordance with section 26-34. The members
16 appointed to the appeals board shall be selected on the basis of
17 their knowledge and experience in the field of boiler and
18 elevator safety. The governor shall designate one of the
19 members the chairperson of the board. Each member shall hold
20 office until the member's successor is appointed and qualified.
21 Because cumulative experience and continuity in office are



1 essential to the proper handling of appeals, it is hereby
2 declared to be in the public interest to continue board members
3 in office as long as efficiency is demonstrated.

4 (b) The board shall have power to decide appeals from
5 decisions and orders of the director issued under this chapter.

6 (c) A decision concurred in by any two members shall
7 constitute a decision of the appeals board. All decisions of
8 the appeals board shall be reduced to writing and shall state
9 separately its finds of fact and conclusions.

10 (d) A vacancy in the board, if there remain two members,
11 shall not impair the authority of two members to act.

12 (e) If any member of the board is unable to act because of
13 absence, temporary disability, or disqualification, the governor
14 may make a temporary appointment and the appointee shall have
15 all the powers and duties of a regular member of the board.

16 (f) The chairperson of the appeals board shall be
17 responsible for the administrative functions of the appeals
18 board.

19 (g) The board may adopt rules within its area of
20 responsibilities in accordance with chapter 91.



(h) The members shall serve without compensation but shall be paid per diem and travel expenses when attending meetings of the appeals board. The appeals board shall be within the department for administrative purposes only.

§ -11 Judicial review. Except where an order has already become final for failure to contest, the decision and order of the appeals board shall be final and conclusive, unless the director or any party to the proceedings before the appeals board obtains a review thereof in the manner provided in chapter 91 by instituting proceedings in the circuit court of the circuit in which the boiler, pressure system, amusement ride, or elevator and kindred equipment is situated or such practice, means, method, operation, or process is employed. The hearing on review shall be on the record and the department shall be deemed a party to any such proceedings. The court shall give precedence to such proceedings over all other civil cases.

§ -12 Trade secrets. Information obtained by the department containing or revealing a trade secret shall be held confidential and access shall be limited to authorized representatives of the director concerned with carrying out this



1 chapter or when relevant in any proceeding under this chapter.
2 In such proceeding the director, the appeals board, or the court
3 shall issue such orders as may be appropriate to protect the
4 confidentiality of trade secrets.

5 **§ -13 Evidence.** No record or determination of any
6 administrative proceeding under this chapter or any statement or
7 report of any kind obtained, received, or prepared in connection
8 with the administration or enforcement of this chapter shall be
9 admitted or used, whether as evidence or as discovery, in any
10 civil action growing out of any matter mentioned in the record,
11 determination, statement, or report other than an action for
12 enforcement or review under this chapter.

13 **§ -14 Boiler and elevator revolving fund; establishment;**
14 **purpose.** (a) There is established in the state treasury the
15 boiler and elevator revolving fund, into which shall be
16 deposited all fees collected pursuant to section -5 and any
17 appropriation from the legislature. All interest and investment
18 moneys earned on any moneys in the revolving fund shall become
19 part of the revolving fund.



1 (b) The purpose of the revolving fund is to provide for
2 sufficient operating costs to carry out the purposes of this
3 chapter. Moneys in the fund may be expended for:

4 (1) Personnel and operating expenses;

5 (2) Staff training and staff certification fees and
6 expenses;

7 (3) Preparation and dissemination of public information on
8 safe installation and use of equipment regulated by
9 this chapter;

10 (4) Preparation of annual reports to the legislature as
11 required by this chapter; and

12 (5) Reimbursement to the general fund as required by this
13 section.

14 (c) The director shall submit a report to the legislature
15 on the status of the boiler and elevator revolving fund,
16 including expenditures and program results, no less than twenty
17 days prior to the convening of each regular session.

18 (d) No later than ten years from the date of the
19 establishment of the revolving fund, the director shall
20 reimburse the general fund for the amount of any initial



1 appropriation that was made by the general revenues of the State
2 to the revolving fund."

3 SECTION 7. Chapter 397, Hawaii Revised Statutes, is
4 repealed.

5 SECTION 8. All rights, powers, functions, and duties of
6 the department of labor and industrial relations relating to the
7 boiler and elevator safety law are transferred to the department
8 of commerce and consumer affairs.

9 All employees whose only function relates to the boiler and
10 elevator safety law are transferred to the department of
11 commerce and consumer affairs. Employees who occupy civil
12 service positions and whose functions are transferred to the
13 department of commerce and consumer affairs by this part shall
14 retain their civil service status, whether permanent or
15 temporary. Employees shall be transferred without loss of
16 salary, seniority (except as prescribed by applicable collective
17 bargaining agreements), retention points, prior service credit,
18 any vacation and sick leave credits previously earned, and other
19 rights, benefits, and privileges, in accordance with state
20 personnel laws and this part; provided that the employees
21 possess the minimum qualifications and public employment



1 requirements for the class or position to which transferred or
2 appointed, as applicable; provided further that subsequent
3 changes in status may be made pursuant to applicable civil
4 service and compensation laws.

5 Any employee who, prior to this Act, is exempt from civil
6 service and is transferred as a consequence of this part may
7 retain the employee's exempt status, but shall not be appointed
8 to a civil service position as a consequence of this part. An
9 exempt employee who is transferred by this part shall not suffer
10 any loss of prior service credit, vacation or sick leave credits
11 previously earned, or other employee benefits or privileges as a
12 consequence of this part; provided that the employees possess
13 legal and public employment requirements for the position to
14 which transferred or appointed, as applicable; provided further
15 that subsequent changes in status may be made pursuant to
16 applicable employment and compensation laws. The director of
17 commerce and consumer affairs may prescribe the duties and
18 qualifications of these employees and fix their salaries without
19 regard to chapter 76, Hawaii Revised Statutes.

20 SECTION 9. All appropriations, records, equipment,
21 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,
2 acquired, or held by the department of labor and industrial
3 relations relating to the functions transferred to the
4 department of commerce and consumer affairs shall be transferred
5 with the functions to which they relate.

6 SECTION 10. All rules, policies, procedures, guidelines,
7 and other material adopted or developed by the department of
8 labor and industrial relations to implement provisions of the
9 Hawaii Revised Statutes applicable to the boiler and elevator
10 safety law that are in effect on the effective date of this Act
11 shall remain in full force and effect until amended or repealed
12 by the department of commerce and consumer affairs pursuant to
13 chapter 91, Hawaii Revised Statutes. In the interim, every
14 reference to the department of labor and industrial relations or
15 director of labor and industrial relations in those rules,
16 policies, procedures, guidelines, and other material is amended
17 to refer to the department of commerce or consumer affairs and
18 the director of commerce and consumer affairs, as appropriate.

19 PART IV

20 SECTION 11. Section 706-650.5, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (3) to read as follows:

2 "(3) There is established within the state treasury a
3 special fund to be known as the human trafficking victim
4 services fund to be administered by the [~~department of labor and~~
5 ~~industrial relations.~~] judiciary. The disbursement of money
6 from the human trafficking victim services fund shall be used to
7 supplement programs, grants, or purchase of service contracts
8 that support or provide comprehensive services to victims of
9 labor trafficking crimes under part VIII of chapter 707, or
10 victims of trafficking related to crimes under part I of
11 chapter 712. Moneys in the special fund shall be used for new
12 or existing programs, grants, or purchase of service contracts
13 and shall not supplant any other moneys previously allocated to
14 these programs, grants, or purchase of service contracts."

15 2. By amending subsection (6) to read as follows:

16 "(6) The [~~department of labor and industrial relations~~]
17 judiciary shall submit to the legislature no later than twenty
18 days prior to the convening of each regular session a written
19 annual report that provides the following:

20 (a) An accounting of the receipts of and expenditures from
21 the human trafficking victim services fund; and



(b) Any recommendations to improve support of and services to victims of labor trafficking crimes under part VIII of chapter 707, or victims of trafficking related to crimes under part I of chapter 712."

SECTION 12. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of labor and industrial relations relating to the functions transferred to the judiciary shall be transferred with the functions to which they relate.

PART V

SECTION 13. Any funds remaining in the boiler and elevator revolving fund established pursuant to section 397-13, Hawaii Revised Statutes, on the effective date of this Act shall be transferred to the boiler and elevator revolving fund established pursuant to section 6 of this Act.

SECTION 14. Any valid permit to operate issued under chapter 397, Hawaii Revised Statutes, in effect on the effective date of this Act shall be recognized as though issued by the department of commerce and consumer affairs. The department of labor and industrial relations appeals board shall have



1 continuing jurisdiction over any outstanding appeals pursuant to
2 chapter 397, Hawaii Revised Statutes, until such time that the
3 boiler and elevator safety appeals board has been established
4 pursuant to this Act.

5 PART VI

6 SECTION 15. This Act does not affect rights and duties
7 that matured, penalties that were incurred, and proceedings that
8 were begun before its effective date.

9 SECTION 16. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 17. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 18. This Act shall take effect on December 25,
18 2040.



H.B. NO. ⁹⁰ H.D. 2

Report Title:

Government; State Fire Council; Boiler and Elevator Safety Law;
DLIR; DCCA; Human Trafficking Victim Services Fund; Judiciary

Description:

Transfers the state fire council, for administrative purposes, from DLIR to DCCA. Places the boiler and elevator safety law under the jurisdiction of DCCA rather than DLIR and creates a boiler and elevator safety appeals board. Transfers administration of the human trafficking victim services fund from DLIR to the judiciary. Effective 12/25/2040. (HD2)

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