

Honolulu, Hawaii

**FEB 17 2022**

RE: S.B. No. 2298  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 2298 entitled:

"A BILL FOR AN ACT RELATING TO WAGES,"

begs leave to report as follows:

The purpose and intent of this measure is to increase the penalty for violation of wages and hours laws to a class C felony.

Your Committee received testimony in support of this measure from Hawai'i State AFL-CIO, Pride at Work - Hawai'i, IATSE Local 665, and Hawaii Ports Maritime Council. Your Committee received comments on this measure from the Department of Labor and Industrial Relations.

Your Committee finds that wage theft occurs when employers deny the provision of wages, employee benefits, or other forms of compensation rightfully owed to an employee. Wage theft by an employer also constitutes tax fraud, as the employer is not properly withholding wages of its employees to pay federal income and employment taxes. This measure ensures accountability of employers who commit wage theft by increasing the penalty for violation of wages and hours laws to a class C felony.

Your Committee finds that the measure in its current form has the unintended effect of making not only wage theft, but all other violations of wage and hour law and payment of wages and other



compensation law, including provisions governing record keeping, a class C felony.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the increase in penalty from a misdemeanor to class C felony only applies to an employer's deliberate failure to pay the wages of an employee in accordance with the State's wage and hour law and payment of wages and other compensation law;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee also notes the testimony of the Department of Labor and Industrial Relations stating that under existing law, the Department's Wage Standards Division conducts investigations into violations of the wage and hour law and payment of wages and other compensation law, and issues notices of violation with civil penalties as an administrative remedy; however, this measure would require the Department of the Attorney General to criminally charge those that violate these laws. Your Committee finds that this issue raises concerns that merit further consideration and requests that your Committees on Judiciary and Ways and Means further examine those issues and concerns raised by the testimony.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2298, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2298, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committee on Labor, Culture and  
the Arts,



BRIAN T. TANIGUCHI, Chair



