



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHAHA

February 7, 2025

To: The Honorable Henry J.C. Aquino, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Friday, February 7, 2025
Time: 3:00 p.m.
Place: Conference Room 224, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 1034 RELATING TO THE FOOD SERVICE INDUSTRY

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR offers comments** on this proposal. SB1034 proposes to amend the Wage and Hour Law, Chapter 387, Hawaii Revised Statutes (HRS), by adding a new section to require employers in the food service industry to allow their employees an unpaid rest period of at least 30 consecutive minutes for each 5 consecutive hours of working time.

II. CURRENT LAW

Chapter 387, HRS, Wage and Hour Law, relates to minimum wage, overtime, and record keeping requirements.

Under Section 390-2(c)(3), HRS, of the Child Labor Law, 14- and 15-year old minors may work no more than 5 hours continuously without at least a 30-minute rest or lunch period.

There is no labor law that requires rest or meal periods for other employees.

III. COMMENTS ON THE SENATE BILL

Chapter 387, HRS, Wage and Hour Law, excludes employers who are subject to the Fair Labor Standards Act (FLSA). The FLSA is the federal wage and hour law which covers employers with annual dollar volume of sales of at least \$500,000 and employees engaged in interstate commerce.

If an employer provides a break for the purpose of a meal, the period is not compensable if the period is 30-minutes or more and the employee is completely relieved of duty. To verify that a rest period of at least 30-minutes was taken, employers must keep a record of rest periods taken by each employee.

This bill applies only to the food service industry. Rest or meal period provisions should cover all industries and not be limited to a specific industry.

This measure does not contain a penalty if an employer does not allow an employee a rest period of at least 30 consecutive minutes.



Andy Huang, Chairman – L&L Hawaiian Barbecue **Ave Kwok, Past Chair** – Jade Dynasty Seafood Restaurant
Mike Palmer, Incoming Chair – Ho'okipa Partners **Tambara Garrick, Treasurer** – Hawaii Farm Project
Victor Lim, Government Relations Lead – McDonald's | **Mail: 2909 Wai'ala'e Avenue #22, Honolulu, HI 96826**

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Date: February 5, 2025
To: Sen. Henry J.C. Aquino, Chair
Sen. Chris Lee, Vice Chair
Committee on Labor and Technology
From: Victor Lim, Legislative Lead
Subj: SB 1034 Relating to the Food Service Industry

The Hawaii Restaurant Association representing 4,000 Eating and Drinking Place here stands in support of SB 1034 that requires employers in the food service industry to allow their employees an unpaid rest period of 30 consecutive minutes for each five consecutive hours of working time.

I am here to share with you that most of the people in the Restaurant Industry that I know already provide something very similar to what's being called out this this bill. The one fact about restaurant industry is that work shifts doesn't only come in 5-hour increments, with many in the 5 – 8 hours shifts, and would recommend changing the language (page 2, line 9) accordingly.

Thank you for allowing us to share our comments.



The
Store
With
Aloha

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February 5, 2025

Chair Henry J.C. Aquino
Vice Chair Chris lee
Labor and Technology Committee

Re: ABC Stores in Oppose of SB 1034

Aloha Chair Aquino, Vice Chair Lee, and members of the Senate Committee on Labor and Technology. I am John Mark Mageo, Employee Relations and Government Affairs Manager of ABC Stores. Thank you for the opportunity to testify.

ABC Stores employs over 2,200 residents across Oahu, Kona, Maui, Kaua'i, Guam, Saipan, and Las Vegas and we oppose SB 1034. As a Company, we strongly believe in the health and well-being of our people. Like many good employers, the implementation of unpaid rest periods is already integrated into our operations, and we have an audit system in place to ensure these unpaid rest periods are being observed across our stores, restaurants, offices, and warehouses.

However, the new underscored statutory material of the bill will be impractical for our business. There are scenarios where some of our locations may be understaffed, making it difficult to take unpaid rest periods for each five hours of working time due to business demands. Additionally, there may be shifts that are only five hours long when the employee did not take an unpaid rest period due to the aforementioned staffing issues.

Rather than imposing a one-size-fits-all mandate, businesses should retain flexibility in managing work schedules and breaks according to operational needs. We appreciate your time and attention, and we thank you for this opportunity to testify.

Mahalo,

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LATE

TO: Committee on Labor and Technology
FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 10, 2025

TIME: 3pm

RE: SB1034 Relating to The Food Service Industry
Position: Comments

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, manufacturers and distributors of food and beverage related products in the State of Hawaii.

HFIA understands the intent of this measure, and would like to submit comments. There are a number of scenarios where adhering to the exact scheduling and break parameters may not be feasible for employees and employers. In some cases employees may have short shifts of only 4 or 5 hours and in those instances might not make sense. Mandating certain break periods creates an unnecessary administrative and scheduling burden for employers who already have functional break schedules integrated into their operations which work for employers and employees. We thank you for the opportunity to testify.