

ACT 123

S.B. NO. 1040

A Bill for an Act Relating to the Hawaii Occupational Safety and Health Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 396-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (b) and (c) to read:

“(b) Any employer who has received an order or citation for a serious violation of any standard or rule adopted pursuant to this chapter shall be assessed a civil penalty of not more than ~~[\$7,000]~~ \$7,700 for each violation.

(c) Any employer who has received an order or citation for a violation of any standard or rule adopted pursuant to this chapter, and the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ~~[\$7,000]~~ \$7,700 for each violation.”

2. By amending subsections (e) to (i) to read:

“(e) Any employer who violates any of the posting requirements prescribed under this chapter shall be assessed a civil penalty of up to ~~[\$7,000]~~ \$7,700 for each violation.

(f) Any employer who wilfully or repeatedly violates this chapter, or any standard, rule, citation, or order issued under the authority of this chapter, shall be assessed a civil penalty of not less than ~~[\$5,000]~~ \$5,500 nor more than ~~[\$70,000]~~ \$77,000 for each violation.

(g) Any employer convicted of wilful or repeated ~~[violation]~~ violations of any standard, rule, citation, or order issued under the authority of this chapter resulting in the death of an employee shall be punished by a fine of not more than ~~[\$70,000]~~ \$77,000 or by imprisonment for not more than six months, or both, except that if the conviction is for a violation committed after a first conviction, punishment shall be by a fine of not more than ~~[\$70,000]~~ \$77,000 or by imprisonment for not more than one year, or both. Failure to correct a violation for which an order or citation of arrest has been issued shall be evidence of wilful conduct.

(h) Any employer who has received an order for violation under section 396-8(e) may be assessed a civil penalty of not more than ~~[\$1,000]~~ \$1,100 for each violation.

(i) Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the director or the director's designees shall, upon conviction, be punished by a fine of not more than ~~[\$1,000]~~ \$1,100 or by imprisonment for not more than six months, or by both."

3. By amending subsections (m) and (n) to read:

"(m) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than ~~[\$10,000,]~~ \$11,000, or by imprisonment for not more than six months, or by both.

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

- (1) Ten years shall be added to the maximum term of imprisonment (unless life imprisonment is imposed) and ~~[\$50,000]~~ \$55,000 shall be added to the maximum fine imposed for conviction of a class A felony;
- (2) Five years shall be added to the maximum term of imprisonment and ~~[\$25,000]~~ \$27,500 shall be added to the maximum fine imposed for conviction of a class B felony;
- (3) Three years shall be added to the maximum term of imprisonment and ~~[\$10,000]~~ \$11,000 shall be added to the maximum fine for conviction of a class C felony;
- (4) One year shall be added to the maximum term of imprisonment and ~~[\$2,000]~~ \$2,200 shall be added to the maximum fine for conviction of a misdemeanor; and
- (5) The maximum term of imprisonment and maximum fines prescribed for misdemeanors under the Hawaii Penal Code shall apply to convictions of a petty misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2011.

(Approved June 14, 2011.)