



GOV. MSG. NO. 579

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 19, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 19, 2010, the following bill was signed into law:

SB2220 SD1 HD2 CD1

A BILL FOR AN ACT
RELATING TO CONSTRUCTION SITES.
ACT 121 (10)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

MAY 19 2010

on _____

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

ACT 121

S.B. NO.

2220
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO CONSTRUCTION SITES.

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

1 SECTION 1. The legislature finds that Hawaii's economy is
2 driven by thousands of businesses that provide essential goods,
3 services, and jobs. However, an underground economy exists that
4 threatens the ability of legitimate businesses to effectively
5 compete in the marketplace. Underground business operations
6 typically:

- 7 (1) Avoid licensing requirements;
- 8 (2) Pay wages in cash, therefore avoiding payroll tax,
9 unemployment insurance, disability insurance, personal
10 income tax, and paid family leave requirements;
- 11 (3) Employ vulnerable workers, new immigrants, and
12 economically disadvantaged individuals;
- 13 (4) Fail to pay minimum wages required by state and
14 federal law;
- 15 (5) Fail to carry workers' compensation insurance; and
- 16 (6) Avoid worker and workplace safety requirements.

17 The legislature further finds that underground business
18 operations drive down wages, create harsh working conditions,



1 and undercut legitimate business' profit margins. Underground
2 business operations are a threat to the State's economy,
3 workforce, and consumers.

4 The purpose of this Act is to create a construction site
5 inspection task force to analyze the feasibility and potential
6 complications of implementing a task force to investigate and
7 inspect construction sites for unlicensed contractors,
8 undocumented workers, and workplace safety violations.

9 SECTION 2. The director of commerce and consumer affairs
10 (director) shall convene a construction site inspection task
11 force. The director or the director's designee shall serve as
12 chairperson of the construction site inspection task force. The
13 task force shall include at least two representatives each from
14 the office of the attorney general, the department of commerce
15 and consumer affairs, the disability compensation division of
16 the department of labor and industrial relations, the
17 occupational safety and health division of the department of
18 labor and industrial relations, the unemployment insurance
19 division of the department of labor and industrial relations,
20 and the department of taxation. The task force also shall
21 request that a representative from each county permitting
22 department be included in the task force.



1 The construction site inspection task force shall:

- 2 (1) Discuss, research, and report on the advantages of
3 sharing among the participating agencies information
4 necessary to combat unlicensed contracting, the use of
5 undocumented workers, and workplace safety violations,
6 including a discussion of the potential advantages and
7 disadvantages of a shared automated information
8 database systems, common case numbers, and a
9 centralized debt collection system;
- 10 (2) Discuss, research, and report on ways to improve the
11 coordination of activities among the participating
12 agencies;
- 13 (3) Discuss, research, and report on ways to develop
14 methods to pool, focus, and target the enforcement
15 resources of the participating agencies to deter tax
16 evasion, unlicensed contractor activity, and workplace
17 safety violations and to maximize recovery of
18 penalties for violations of laws and rules; and
- 19 (4) Discuss, research, and report on ways to reduce
20 enforcement costs wherever possible by eliminating
21 duplicative audits and investigations.

22 The task force shall have the authority to:



- 1 (1) Form joint discussion teams to discuss ways to utilize
2 the existing investigation and enforcement
3 capabilities of the participating members, including
4 the appointment of inspectors by the director or by
5 participating members. The joint discussion teams
6 shall evaluate the efficiencies of conducting site
7 inspections on sites suspected of engaging in tax
8 evasion, unlicensed contractor activity, workplace
9 safety violations, and violations of other labor laws
10 as well as random site inspections to ensure
11 compliance with existing laws;
- 12 (2) Solicit the future cooperation and participation of
13 other state and local agencies in carrying out the
14 objectives of the task force;
- 15 (3) Establish potential procedures, including but not
16 limited to an advertised telephone hotline, for
17 soliciting referrals of suspected violations from the
18 public;
- 19 (4) Develop procedures to enable the use of civil
20 sanctions in lieu of criminal actions wherever
21 possible;



- 1 (5) Evaluate the need for statutory changes to achieve the
- 2 purposes of this section, including:
- 3 (A) Eliminating barriers to interagency information
- 4 sharing;
- 5 (B) Improving the ability of the participating
- 6 agencies to audit, investigate, and prosecute
- 7 violations;
- 8 (C) Deterring violations and improving voluntary
- 9 compliance;
- 10 (D) Establishing centralized, automated data
- 11 collection services for the participating
- 12 agencies; and
- 13 (E) Emphasizing civil penalties instead of criminal
- 14 ones whenever possible; and
- 15 (6) Evaluate the need for the authority to enter at
- 16 reasonable times and without prior notice, any
- 17 property, public or private, for the purpose of
- 18 investigating and inspecting the condition or
- 19 operation of a construction site.

20 SECTION 3. The construction site inspection task force

21 shall submit a report to the legislature no later than sixty

22 days before the commencement of the 2011 regular session on its



1 findings and recommendations on implementing a task force to
2 investigate and inspect construction sites for unlicensed
3 contractors, undocumented workers, and workplace safety
4 violations. The report shall include but not be limited to:

- 5 (1) The scope of potential cases of violations and
6 noncompliance with tax laws that could be identified,
7 audited, investigated, prosecuted through civil
8 action, or referred for criminal prosecution;
- 9 (2) Actions and authority needed by the task force to
10 undertake and publicize its activities;
- 11 (3) Recommendations for any legislation needed to
12 accomplish the goals and to implement the
13 recommendations of the construction site inspection
14 task force; and
- 15 (4) Identification of funding streams and estimated
16 expenditures needed in order to fully implement the
17 recommendations of the construction site inspection
18 task force.

19 SECTION 4. This Act shall take effect on July 1, 2010.

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APPROVED this 19 day of MAY, 2010



GOVERNOR OF THE STATE OF HAWAII