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# A BILL FOR AN ACT

RELATING TO LABOR.

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

1           SECTION 1. Chapter 392, Hawaii Revised Statutes, is  
2 amended by adding two new sections to part III to be  
3 appropriately designated and to read as follows:

4           "§392-    Failure to observe stop-work order. (a) Any  
5 employer who fails to observe a stop-work order issued and  
6 served upon the employer pursuant to section 392-47 shall be  
7 guilty of a misdemeanor punishable by a fine not exceeding  
8 \$10,000, or imprisonment not exceeding sixty days, or both.

9           (b) The employer or management employer representative who  
10 directed the violation of the stop-work order shall be held  
11 accountable for the violation of the stop-work order.

12           §392-    Recovery of attorneys' fees and costs. The court  
13 may award reasonable attorneys' fees and costs to the department  
14 in an action brought by the department to enforce the provisions  
15 of this chapter, including injunctive and other relief to carry  
16 out the purpose of sections 392-41 and 392-47. Attorneys' fees  
17 and costs recovered pursuant to this section shall be paid into



1 the trust fund for disability benefits established by section  
2 392-61."

3 SECTION 2. Chapter 392, Hawaii Revised Statutes, is  
4 amended by adding a new section to part V to be appropriately  
5 designated and to read as follows:

6 "§392- Litigation expenses and positions to be paid from  
7 the trust fund for disability benefits. All litigation  
8 expenses, including but not limited to court costs, attorneys'  
9 fees, and witness fees incurred by the director's actions to  
10 enforce stop-work orders or collect penalties and fines  
11 associated with an employer's failure to comply with this  
12 chapter may be paid from the trust fund for disability benefits  
13 created by section 392-61."

14 SECTION 3. Section 392-91, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[+]§392-91[+] **Enforcement by the director.** The director  
17 shall enforce the provisions of this chapter. The director may  
18 appoint [~~such~~] investigators, clerks, interpreters, assistants,  
19 [~~and such~~] clerical, stenographic and other help as may be  
20 necessary for the proper enforcement of this chapter subject to  
21 any civil service act relating to state employees. The salaries



1 of all the foregoing appointees and employees shall be as fixed  
2 by law[-] and may be paid from the trust fund for disability  
3 benefits created by section 392-61.

4 The director may adopt, amend, or repeal such rules and  
5 regulations as the director deems necessary or suitable for the  
6 proper enforcement of this chapter."

7 SECTION 4. Section 392-47, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§392-47 Failure to give security for payment of benefits;**  
10 **penalty; stop-work order; fines; injunction. (a) If an**  
11 **employer fails to comply with section 392-41, the director or**  
12 **the director's designee shall issue and serve on the employer a**  
13 **stop-work order prohibiting the use of employee labor by the**  
14 **employer until the employer complies with section 392-41. The**  
15 **stop-work order shall become effective immediately upon service**  
16 **on the employer. Any employee affected by the work stoppage**  
17 **shall be paid by the employer for time lost, not exceeding ten**  
18 **days, pending compliance by the employer. The employer may**  
19 **protest the stop-work order by filing with the director a**  
20 **written request for a hearing within twenty days after service**  
21 **of the stop-work order. The hearing shall be held within five**



1 days from the date of filing the request. The director shall  
2 notify the employer of the time and place of the hearing by  
3 certified mail. At the conclusion of the hearing, the stop-work  
4 order shall be affirmed or dismissed, and within twenty-four  
5 hours of rendering the decision, the director shall issue a  
6 written decision to be served on all parties by registered or  
7 certified mail.

8 (b) At the time the stop-work order is issued and served  
9 pursuant to this section, the director or the director's  
10 designee shall levy a penalty requiring the uninsured employer  
11 [shall be subject to a penalty of] to pay not less than \$500 or  
12 of \$100 for each employee for every day the employer fails to  
13 comply with section 392-41, [during which such failure  
14 continues,] whichever sum is greater, to be recovered in an  
15 action brought in the discretion of the director and the amount  
16 so collected shall be paid into the trust fund for disability  
17 benefits created by section 392-61.

18 (c) The director may, however, in the director's  
19 discretion, for good cause shown, withdraw a stop-work order or  
20 remit all or any part of the penalty in excess of \$500; provided  
21 that the employer in default complies with section 392-41.



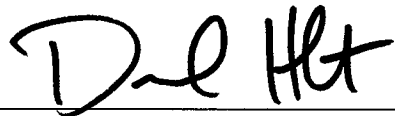
1           Furthermore, if any employer is in default under section  
2 392-41, [~~for a period of thirty days,~~] the employer may be  
3 enjoined by the circuit court of the circuit in which the  
4 employer's principal place of business is located from carrying  
5 on the employer's business in any place in the State so long as  
6 the default continues, [~~such~~] the action for injunction to be  
7 prosecuted by the attorney general or any county attorney if so  
8 requested by the director."

9           SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11           SECTION 6. This Act shall take effect upon its approval.

12

INTRODUCED BY:





JAN 24 2017



# H.B. NO. 1207

**Report Title:**

Labor and Industrial Relations; Temporary Disability Insurance;  
Stop-Work Order

**Description:**

Establishes procedures and penalties related to the issuance of stop-work orders by the Department of Labor and Industrial Relations for employer violations of temporary disability insurance requirements.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

