
A BILL FOR AN ACT

RELATING TO LABOR.

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

1 PART I

2 SECTION 1. Section 386-123, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§386-123 Failure to give security for compensation;
5 penalty; injunction. If an employer fails to comply with
6 section 386-121, the employer shall be liable for a penalty of
7 not less than \$500 or of \$100 for each employee for every day
8 during which such failure continues, whichever sum is greater,
9 to be recovered in an action brought by the director in the name
10 of the State, and the amount so collected shall be paid into the
11 special compensation fund created by section 386-151. The
12 director may, however, in the director's discretion, for good
13 cause shown, remit all or any part of the penalty in excess of
14 \$500; provided that the employer in default complies with
15 section 386-121. With respect to such actions, the attorney
16 general or any county attorney or public prosecutor shall
17 prosecute the same if so requested by the director.



1 In addition, if any employer is in default under section
2 386-121 for a period of [~~thirty~~] fourteen days, the employer may
3 be enjoined, by the circuit court of the circuit in which the
4 employer's principal place of business is located[7] in the
5 State or where the violation occurred, from carrying on the
6 employer's business anywhere in the State so long as the default
7 continues, such action for injunction to be prosecuted by the
8 attorney general or any county attorney if so requested by the
9 director."

10 PART II

11 SECTION 2. Chapter 388, Hawaii Revised Statutes, is
12 amended by adding three new sections to part I to be
13 appropriately designated and to read as follows:

14 "§388-A Order of wage payment violation; appeal. (a)
15 When the department of labor and industrial relations, as a
16 result of the department's own investigation, finds that a
17 violation of this chapter or administrative rules adopted under
18 this chapter has been committed and not corrected, the
19 department shall issue an order of wage payment violation to the
20 employer in violation. The order shall include any amount
21 assessed pursuant to section 388-10(a).



1 (b) The order of wage payment violation shall be final and
2 conclusive unless within twenty days after a copy of the order
3 of wage payment violation has been sent to the employer, the
4 employer files a written notice of appeal with the director in
5 writing.

6 (c) A hearing on the written notice of appeal shall be
7 held pursuant to chapter 91, by a hearings officer appointed by
8 the director, within thirty days of the filing of the notice of
9 appeal. A decision stating the findings of fact and conclusions
10 of law shall be rendered by the hearings officer within thirty
11 days after the conclusion of the hearing.

12 (d) Any party to an appeal under this chapter may obtain
13 judicial review of the decision issued by the hearings officer
14 in the manner provided under chapter 91.

15 §388-B Remittance of penalties. Until the order of wage
16 payment violation becomes final, the director may withdraw or
17 modify the order of wage payment violation or remit all or any
18 part of a penalty assessed if good cause is shown; provided that
19 the employer in default complies with this chapter and the
20 administrative rules adopted under this chapter.



1 §388-C Enforcement of the order of wage payment violation.
2 The director may file in the circuit court in the jurisdiction
3 in which the employer does business, a certified copy of the
4 final order of wage payment violation. The court shall render a
5 judgment in accordance with the final order of wage payment
6 violation and notify the parties of the judgment. The judgment
7 shall have the same effect, and all proceedings in relation to
8 the judgment shall be the same, as though the judgment had been
9 rendered in an action duly heard and determined by the court,
10 except that there shall be no appeal from the judgment."

11 SECTION 3. Section 388-10, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Civil. Any employer who fails to pay wages in
14 accordance with this chapter without equitable justification or
15 violates this chapter or the administrative rules adopted under
16 this chapter shall be liable [tø]:

17 (1) To the employee, in addition to the wages legally
18 proven to be due, for a sum equal to the amount of
19 unpaid wages and interest at a rate of six per cent
20 per year from the date that the wages were due[-]; and



Report Title:

Workers' Compensation; Order of Wage Payment Violation;
Establishment; Enforcement; Penalties

Description:

Amends the requirements for a court to enjoin an employer who has not secured compensation coverage for employees. Authorizes the Department of Labor and Industrial Relations to issue an order of wage payment violation to the employer in violation of provisions regarding payment of wages and other compensation. Establishes penalties, enforcement, and appeal procedures related to orders of wage payment violations. (HB208 CD1)

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