

JAN 27 2021

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

1 SECTION 1. Section 386-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§386-5 Exclusiveness of right to compensation; exception.**

4 The rights and remedies herein granted to an employee or the
5 employee's dependents on account of a work injury suffered by
6 the employee shall exclude all other liability of the employer
7 to the employee, the employee's legal representative, spouse,
8 dependents, next of kin, or anyone else entitled to recover
9 damages from the employer, at common law or otherwise, on
10 account of the injury, except for sexual harassment or sexual
11 assault and infliction of emotional distress or invasion of
12 privacy related thereto, and COVID-19 contracted by an employee
13 whose employer failed to maintain adequate workplace protections
14 against exposure to the novel coronavirus, in which case a civil
15 action may also be brought."

16 SECTION 2. Section 386-85, Hawaii Revised Statutes, is
17 amended to read as follows:



1 "**§386-85 Presumptions.** In any proceeding for the
2 enforcement of a claim for compensation under this chapter it
3 shall be presumed, in the absence of substantial evidence to the
4 contrary:

5 (1) That the claim is for a covered work injury;

6 (2) That sufficient notice of such injury has been given;

7 (3) That the injury was not caused by the intoxication of
8 the injured employee; [~~and~~]

9 (4) That the injury was not caused by the wilful intention
10 of the injured employee to injure oneself or
11 another[~~-~~]; and

12 (5) That COVID-19 has been proximately caused by an
13 employer's failure to maintain adequate workplace
14 protections against exposure to the novel
15 coronavirus."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.



S.B. NO. 1415

1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Jan Acasio



S.B. NO. 1415

Report Title:

Workers' Compensation; COVID-19

Description:

Creates an exception to the exclusive right to compensation under workers' compensation law where COVID-19 is contracted by an employee whose employer failed to maintain adequate workplace protections against exposure to the novel coronavirus. Creates a presumption that COVID-19 has been proximately caused by an employer's failure to maintain adequate workplace protections against exposure to the novel coronavirus.

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

