

SB1040



ROOFING CONTRACTORS ASSOCIATION OF HAWAII

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February 8, 2011

Testimony To: Senate Committee on Judiciary and Laobr
Senator Clayton Hee, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 1040 - RELATING TO THE HAWAII OCCUPATIONAL SAFETY AND
HEALTH LAW

Chair Hee and Members of the Committee:

I am Tim Lyons, Executive Director of the Roofing Contractors Association of Hawaii and we oppose this bill. We oppose this bill because of the one-sided system that exists under the safety laws.

By this, what we mean is that the only citations that can be applied are to employers. It doesn't matter if the employer has provided the employee with training, provided them with safety equipment or has given them an ultimatum to use it. If there is a violation, it is the employer that is fined. To HIOSH's credit, there are ways for an employer to mitigate these violations if they can show an affirmative defense however, the fact remains that any employer who is fined \$7000.00 or \$70,000.00 has a difficult time recouping that amount of money. Can you imagine if you had a traffic citation for \$7000.00?

As proposed, we also find in this bill that the penalty for failing to post notification of the HIOSH law, which currently has a \$7000.00 penalty, could also rise. It would seem to us that \$7000.00 for failure to put up a poster is extremely excessive and any increase in that would fall in the same category.

We are not here to say that employers should violate safety laws and in fact, our Association routinely puts on safety seminars for its members and their employees. We are also very supportive of the safety standards and agree that enforcement is something that cannot be put on the side. An employer that follows safety law regulations has a significant higher cost of operation than one who does not. We do not want to make that differential any worse. It is typical that a lot of safety violations are not followed by companies who have a difficult time of affording the safety measures and to increase the penalties is only to frustrate the situation.

Lastly, we are not aware of any study which shows penalties higher than \$7000/\$70,000 serve as an incentive to comply.

Based on the above we are not in support of this bill.

Thank you.