

JAN 25 2017

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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 386, Hawaii Revised Statutes, is  
2 amended by adding four new sections to part IV to be  
3 appropriately designated and to read as follows:  
4           "§386- Enforcement. The director shall enforce the  
5 provisions of this chapter. The director may employ  
6 investigators, clerks, interpreters, and other employees as  
7 necessary and may assign any employee of the department to  
8 assist in the enforcement of this chapter.  
9           §386- Stop-work order; failure to observe; penalties.  
10 An employer or employer representative who fails to observe a  
11 stop-work order issued and served upon the employer pursuant to  
12 section 386-123 shall be guilty of a misdemeanor punishable by  
13 imprisonment not exceeding sixty days or by a fine not exceeding  
14 \$10,000, or both. Both the employer and employer representative  
15 who directed employees to work in violation of the stop-work  
16 order shall be held in violation of this section. The director



1 may obtain injunctive and other relief from the circuit court to  
2 enforce the provisions of this chapter.

3 §386- Stop-work order; withdrawal; penalties remitted.

4 The director has the discretion to withdraw a stop-work order or  
5 remit all or any part of the penalty in excess of \$500 if good  
6 cause is shown; provided the employer in default complies with  
7 section 386-121.

8 §386- Enforcement; recovery of attorneys' fees and

9 costs. The court may award reasonable attorneys' fees and costs  
10 to the department in an action brought by the department to  
11 enforce the provisions of this chapter, including injunctive and  
12 other relief to carry out the purposes of sections 386-121 and  
13 386-123."

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

16 "§386-123 Failure to give security for compensation;  
17 penalty; injunction[-]; stop-work order; fines. (a) If an  
18 employer fails to comply with section 386-121, the director or  
19 the director's designee shall issue and serve the employer a  
20 stop-work order prohibiting the use of employee labor by the  
21 employer until the employer is in compliance with the provisions



1 of section 386-121. The stop-work order shall become effective  
2 immediately upon service. Any employee so affected by the work  
3 stoppage shall be paid by the employer for the time lost, not to  
4 exceed ten days, pending compliance by the employer.

5 (b) An employer may protest a stop-work order by making  
6 and filing with the director a written request for a hearing  
7 within twenty days after service of the stop-work order. The  
8 hearing shall be held within five days from the date of filing  
9 the request. The director shall notify the employer of the time  
10 and place of the hearing by mail. At the conclusion of the  
11 hearing, the stop-work order shall be affirmed or dismissed, and  
12 within twenty-four hours after the hearing, the director shall  
13 issue a written decision to all parties by registered or  
14 certified mail.

15 (c) At the time the stop-work order is issued and served  
16 pursuant to this section, the director or the director's  
17 designee shall also issue and serve a penalty requiring the  
18 uninsured employer [~~shall be liable for~~] to pay a penalty of not  
19 less than \$500 or of \$100 for each employee for every day  
20 [~~during which such failure continues,~~] the employer fails to  
21 comply with the provisions of section 386-121, whichever sum is



1 greater, to be recovered in an action brought by the director or  
2 the director's designee in the name of the State, and the amount  
3 so collected shall be paid into the special compensation fund  
4 created by section 386-151. [~~The director may, however, in the~~  
5 ~~director's discretion, for good cause shown, remit all or any~~  
6 ~~part of the penalty in excess of \$500; provided that the~~  
7 ~~employer in default complies with section 386-121. With respect~~  
8 ~~to such actions, the attorney general or any county attorney or~~  
9 ~~public prosecutor shall prosecute the same if so requested by~~  
10 ~~the director.~~

11 ~~In addition, if any employer is in default under section~~  
12 ~~386-121 for a period of thirty days, the employer may be~~  
13 ~~enjoined, by the circuit court of the circuit in which the~~  
14 ~~employer's principal place of business is located, from carrying~~  
15 ~~on the employer's business anywhere in the State so long as the~~  
16 ~~default continues, such action for injunction to be prosecuted~~  
17 ~~by the attorney general or any county attorney if so requested~~  
18 ~~by the director.] "~~

19 SECTION 3. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



# S.B. NO. 858

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: ~~ADD A.C. Smith~~  
Hal Rhoad



# S.B. NO. 858

**Report Title:**

Stop-Work Orders; Establishment; Enforcement; Penalties

**Description:**

Authorizes the Director of Labor and Industrial Relations or the Director's designee to issue and serve on an employer a stop-work order prohibiting the use of employee labor by the employer until the employer complies with the provisions of section 386-121, Hawaii Revised Statutes. Establishes penalties, enforcement, and protest procedure related to stop-work orders.

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

