
A BILL FOR AN ACT

RELATING TO PUBLIC WORKS.

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

1 SECTION 1. Section 104-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§104-24 Violations; penalties.** (a) Where the department
4 finds that a first violation of this chapter has been committed,
5 the department, after proper notice and opportunity for hearing,
6 shall assess and order the person or firm in violation to be
7 jointly and severally liable for a penalty equal to twenty-five
8 per cent of the amount of back wages found due or \$250 [~~per~~] for
9 each offense, up to \$2,500, whichever is greater.

10 (b) Where the department finds that a second violation of
11 this chapter has been committed, whether on the same or another
12 contract, within two years of the first notification of
13 violation, the department, after proper notice and opportunity
14 for hearing, shall assess and order the person or firm in
15 violation to [~~pay~~] be jointly and severally liable for a penalty
16 equal to the amount of back wages found due or \$500 for each
17 offense, up to \$5,000, whichever is greater.



1 (c) Where the department finds that a third violation of
2 this chapter has been committed, whether on the same or another
3 contract, within three years of the second notification of
4 violation, the department, after proper notice and opportunity
5 for hearing, shall assess and order the person or firm in
6 violation[+] to be:

7 (1) [~~To pay~~] Jointly and severally liable for a penalty
8 equal to two times the amount of back wages found due
9 or \$1,000 for each offense, up to \$10,000, whichever
10 is greater; and

11 (2) [~~To be suspended~~] Suspended from doing any new work on
12 any public work of a governmental contracting agency
13 for a period of three years except as provided in
14 section 104-25(a)(2). [~~"New work on any public work"~~
15 ~~includes any public works project in which the~~
16 ~~suspended person or firm has not begun work at the job~~
17 ~~site as of the date of the suspension order.~~] The
18 suspension shall be effective on the later of the
19 twenty-first day after the notification of violation
20 has been sent, or upon the issuance of a decision
21 pursuant to section 104-23(c).

1 (d) A first, second, or third violation refers to each
2 project in which the department finds that a contractor has
3 failed to comply with this chapter.

4 (e) Both the person and firm shall be listed on each
5 notice of violation.

6 [~~(e)~~] (f) For purposes of this section [~~,"offense"]:~~

7 "New work on any public work" includes any public works
8 project in which the suspended person or firm has not begun work
9 at the job site as of the date of the suspension order.

10 "Offense" means each section of this chapter under which
11 the contractor is cited; provided that, with respect to
12 prevailing wage and overtime citations under section 104-2, each
13 employee and each project shall be considered a separate
14 offense.

15 "Person" includes a sole proprietor and the principal
16 responsible managing employee that holds the contractors license
17 of the firm; provided that for subsection (c) (2), "person" also
18 includes all subordinate responsible managing employees who are
19 employed during the calendar period being investigated."

20 SECTION 2. Section 104-25, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§104-25 Suspension.** (a) The director shall suspend a
2 person [~~or~~] and firm as follows:

3 (1) For a first or second violation, if a person or firm
4 fails to pay wages found due[~~r~~] or any penalty
5 assessed, or both, the person [~~or~~] and firm shall be
6 immediately suspended from doing any work on any
7 public work of a governmental contracting agency until
8 all wages and penalties are paid in full;

9 (2) For a third violation, the suspension shall be as
10 prescribed in section 104-24(c); provided that, if the
11 person or firm continues to violate this chapter or
12 fails to pay wages found due or any penalty assessed,
13 or both, then the person [~~or~~] and firm shall
14 immediately be suspended from doing any work on any
15 public work of a governmental contracting agency for a
16 mandatory three-year period. If after the three-year
17 suspension period the wages found due or penalties
18 assessed are still unpaid, the suspension shall remain
19 in force until payment is made in full; or

20 (3) For falsification of records, or for delay or
21 interference with an investigation pursuant to section



1 104-22, the person [~~or~~] and firm shall be immediately
2 suspended for a period of three years.

3 (b) The director shall immediately notify the governmental
4 contracting agency, comptroller, [~~the~~] auditor or director of
5 finance of the county, and, in the case of a suspended
6 subcontractor, [~~the~~] general contractor of any suspension order.

7 (c) No contract shall be awarded to the person [~~or~~] and
8 firm so suspended or to any firm, corporation, partnership, or
9 association in which the person or firm has an interest, direct
10 or indirect, until three years have elapsed from the date of
11 suspension, unless the period of suspension is reduced or
12 extended as herein provided. Any contract awarded in violation
13 of this subsection shall be void.

14 (d) For purposes of this section, "person" shall have the
15 same meaning as in section 104-24."

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on June 30, 3000.



Report Title:

Wages and Hours of Employees on Public Works; Violations;
Penalties; Suspension; DLIR

Description:

Orders the person or firm found to be in violation of the state law governing wages and hours of employees on public works to be jointly and severally liable for the penalty, with the penalty increasing for repeat violations. Requires each notice of violation to contain the names of the person and the firm. Defines a "person" for purposes of violations of the state law governing wages and hours of employees on public works, and related penalties and suspension. Requires the director of labor and industrial relations to suspend the person and firm under specified conditions. Effective 6/30/3000. (HD2)

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