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## A BILL FOR AN ACT

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RELATING TO THE HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW.

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

1       SECTION 1. Section 396-3, Hawaii Revised Statutes, is  
2 amended by repealing the definitions of "hoisting machine" and  
3 "hoisting machine operator".

4       ~~["Hoisting machine" means a machine with a hoist line,~~  
5 ~~sling, or hydraulic lifting mechanism used in construction,~~  
6 ~~demolition, or excavation work.~~

7       ~~"Hoisting machine operator" means any individual who~~  
8 ~~operates a hoisting machine in the State."]~~

9       SECTION 2. Section 396-8, Hawaii Revised Statutes, is  
10 amended by amending subsection (e) to read as follows:

11       "(e) Discharge or discrimination against employees for  
12 exercising any right under this chapter is prohibited. In  
13 consideration of this prohibition:

14       (1) No person shall discharge, suspend or otherwise  
15       discriminate in terms and conditions of employment  
16       against any employee by reason of:

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(A) The employee's failure or refusal to operate or handle any machine, device, apparatus, or equipment which is in any unsafe condition; or

(B) The employee's failure or refusal to engage in unsafe practices in violation of this chapter or of any standard, rule, regulation, citation or order issued under the authority of this chapter;

(2) Upon discretion of the director or request, names of complainants may be withheld from the employer;

(3) No person shall discharge or in any manner discriminate against any employee because the employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or intends to testify in any such proceeding, or acting to exercise or exercised on behalf of the employee or others any right afforded by this chapter;

(4) Any employee who believes that there has been a discharge or discrimination against the employee by any person in violation of this subsection may, within sixty days after the violation occurs, file a complaint with the director alleging unlawful

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1 discharge or discrimination and setting forth the  
2 circumstances thereof;

3 (5) Upon receipt of the complaint, the director shall  
4 investigate to determine if a discharge or  
5 discrimination in violation of this subsection has  
6 occurred;

7 (6) If upon investigation the director determines that the  
8 provisions of this subsection have been violated, the  
9 director shall order the employer to provide all  
10 appropriate relief to the employee, including rehiring  
11 or reinstating the employee to the former position  
12 with back pay and restoration of seniority;

13 (7) Within ninety days of receipt of a complaint filed  
14 under this subsection, [~~unless extended by the~~  
15 ~~director,~~] the director shall notify the employee of  
16 the final determination and any subsequent action the  
17 department will take to resolve the complaint[+] unless the investigation cannot be completed within  
18 that period, in which case up to ninety additional  
19 days are allowed without notice. Any further  
20 extension may be granted by the director with notice  
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1           to the employee of the additional time required and  
2           the expected date of the final determination; and

3           (8) Nothing in this subsection shall preclude any employee  
4           or representative of an employee from simultaneously  
5           pursuing a cause of action for injunctive relief or  
6           any other remedy provided by law."

7           SECTION 3. Section 396-19, Hawaii Revised Statutes, is  
8           repealed.

9           ~~["§396-19 Hoisting machine operators advisory board. (a)~~  
10          ~~There is created a hoisting machine operators advisory board,~~  
11          ~~which shall be placed in the department for administrative~~  
12          ~~purposes, to be composed of five members to serve without~~  
13          ~~compensation and without reimbursement for expenses. Members~~  
14          ~~shall be appointed by the governor under section 26-34.~~

15          ~~The board shall adopt rules pursuant to chapter 91 for the~~  
16          ~~certification of hoisting machine operators.~~

17          ~~(b) The hoisting machine operators advisory board may~~  
18          ~~employ a 0.5 full-time equivalent office assistant, without~~  
19          ~~regard to chapters 76 and 89 and may dismiss such person as it~~  
20          ~~finds necessary for the performance of its function and duties.~~  
21          ~~The board shall have the authority to fix the office assistant's~~  
22          ~~compensation." ]~~

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1       SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Nadine K. Markman*

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BY REQUEST

JAN 26 2026

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**Report Title:**

Department of Labor and Industrial Relations; Occupational Safety and Health Administration; Complaints; Determinations; Hoisting Machine Operators Advisory Board

**Description:**

Repeals the Hoisting Machine Operators Advisory Board and its rules requiring a separate state crane operator certificate and allows additional time for the Director of Labor and Industrial Relations to complete an investigation of a discharge or discrimination complaint pertaining to employees exercising rights under the Occupational Safety and Health Law without formal extension.

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

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW.

PURPOSE: To eliminate the Hoisting Machine Operators Advisory Board (Board) and its rules requiring a separate state crane operator certificate, and to allow additional time beyond the current ninety-day period for whistleblower determinations.

MEANS: Amend sections 396-3 and 396-8(e), Hawaii Revised Statutes (HRS), and repeal section 396-19, HRS.

JUSTIFICATION: Repealing section 396-19, HRS, is necessary to eliminate the Hoisting Machine Operators Advisory Board, which adopted chapter 12-48, Hawaii Administrative Rules (HAR), requiring a separate state crane operator certificate in addition to the certification mandated under 29 C.F.R. § 1926.1427. The Occupational Safety and Health Administration's (OSHA) national certification standards already ensure operator competence and workplace safety, making Hawaii's additional certification unnecessary. With the repeal of the Board's enabling statute, chapter 12-48, HAR, will no longer have statutory authority and the state certificate requirement will be repealed.

Amending section 396-8(e), HRS, is necessary to allow additional time beyond the current ninety-day period for notifying employees of whistleblower determinations. This amendment ensures that the department may complete investigations that cannot be resolved within ninety days by permitting one additional ninety-day period without notice, and providing that any further extension shall be made by the director with notice to the employee of the additional

time required and the expected date of the final determination, while remaining consistent with 29 C.F.R. § 1977.16.

Impact on the public: This bill eliminates the separate Hawaii certification requirement while maintaining safety under OSHA's national standards. It also clarifies the whistleblower investigatory period, giving employees and employers clearer expectations about the timelines for investigations.

Impact on the department and other agencies: This bill streamlines department operations by eliminating the hoisting machine operators certification requirements while ensuring construction crane operation safety by following OSHA standards. It also provides the department adequate time to properly investigate whistleblower complaints.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LBR143.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.