

ACT 100

S.B. NO. 2439-80

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Workers suffering work-related injuries are barred from bringing civil actions against their employers under the Workers' Compensation Law. The legislature finds that some workers are seeking recourse against third parties and are bringing actions against their labor organizations on the theory that the organization failed to adequately protect its members on matters related to safety and health and as a result, labor organizations are reluctant to discuss, agree on, and otherwise meaningfully deal with such problems. The legislature recognizes that employee safety and health issues have traditionally and properly been a subject of concern in labor-management relations and protection against such civil actions is necessary so that labor organizations may fully and fairly represent all their members in matters related to safety and health without being exposed to possible civil liability.

The purpose of this Act is to provide immunity for labor organizations from civil actions based on safety and health issues on the same basis that employers are afforded immunity under the Workers' Compensation Law.

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“Sec. 386- Immunity from third party liability. Section 386-8 and any other law to the contrary notwithstanding, when a work injury for which compensation is payable under this chapter has been sustained, the discussion or furnishing of, or failure to discuss or furnish, or failure to enforce any safety or health provision to protect employees against work injuries, in any collective bargaining agreement or in negotiations thereon, shall not subject a labor organization representing the injured employee to any civil liability for the injury.

As used in this section, the terms:

- (1) “Labor organization” means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection and includes both private industry and public employment labor organizations.
- (2) “Safety or health provision” includes, but is not limited to, safety or health inspections and advisory services.”

SECTION 3. New statutory material is underscored.*

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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SECTION 4. This Act shall take effect upon its approval, but shall not affect any right or action which accrued prior to its effective date.

(Approved May 22, 1980.)