

ACT 224

H.B. NO. 2648

A Bill for an Act Relating to Workers' Compensation.

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

SECTION 1. The purpose of this Act is to implement recommendations of the economic revitalization task force convened by the governor, the president of the senate, and the speaker of the house of representatives, relating to workers' compensation.

SECTION 2. Section 386-3, Hawaii Revised Statutes, is amended to read as follows:

“§386-3 Injuries covered. (a) If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents as [hereinafter] provided[.] in this chapter.

Accident arising out of and in the course of the employment includes the wilful act of a third person directed against an employee because of the employee's employment.

(b) No compensation shall be allowed for an injury incurred by an employee by the employee's wilful intention to injure oneself or another by actively engaging in any unprovoked non-work related physical altercation other than in self defense, or by the employee's intoxication.

(c) A claim for mental stress resulting solely from disciplinary action taken in good faith by the employer shall not be allowed; provided that if a collective bargaining agreement or other employment agreement specifies a different standard than good faith for disciplinary actions, the standards set in the collective bargaining agreement or other employment agreement shall be applied in lieu of the good faith standard. For purposes of this subsection, the standards set in the collective bargaining agreement or other employment agreement shall be applied in any proceeding before the department, the appellate board, and the appellate courts.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved July 20, 1998.)