

ACT 229

H.B. NO. 1162

A Bill for an Act Relating to Safety.

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

SECTION 1. Section 397-4, Hawaii Revised Statutes, is amended by amending subsection (a) read as follows:

“(a) Administration.

- (1) The department shall establish a boiler and elevator inspection [bureau] branch for the enforcement of the rules adopted under this chapter and other duties assigned;
- (2) The department shall:
 - (A) Implement and enforce the requirements of this chapter; and
 - (B) Keep adequate and complete records of the type, size, location, identification data, and inspection findings for boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter;
- (3) The department shall formulate definitions and adopt and enforce standards and rules pursuant to chapter 91 that may be necessary for carrying out this chapter. Definitions and rules adopted in accordance with chapter 91 under the authority of chapter 396, prior to the adoption of this chapter that pertain to boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter, shall be continued in force under the authority of this chapter;
- (4) Emergency temporary standards may be adopted without conforming to chapter 91 and without hearings to take immediate effect upon giving public notice of the emergency temporary standards or upon another date that may be specified in the notice. An emergency temporary standard may be adopted, if the director determines:
 - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
 - (B) That the emergency temporary standard is necessary to protect the public or individuals from danger.

Emergency temporary standards shall be effective until superseded by a standard adopted under chapter 91, but in any case shall be effective no longer than six months;
- (5) Variances from standards adopted under this chapter may be granted upon application of an owner, user, contractor, or vendor. Application for variances must correspond to procedures set forth in the rules adopted pursuant to this chapter. The director may issue an order for variance, if the director determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide substantially equivalent safety as that provided by the standards;
- (6) Permits.
 - (A) The department shall [not] issue a “permit to operate” regarding any boiler, pressure system, amusement ride, or elevator and kindred equipment if found to be safe in accordance with rules adopted pursuant to chapter 91;
 - (B) The department may immediately revoke any “permit to operate” of any boiler, pressure system, amusement ride, or elevator

and kindred equipment found to be in an unsafe condition or where a user, owner, or contractor ignores prior department orders to correct specific defects or hazards and continues to use or operate the above mentioned apparatus without abating the hazards or defects;

- (C) The department shall reissue a "permit to operate" to any user, owner, or contractor who demonstrates that the user, owner, or contractor is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the boilers, pressure systems, amusement rides, and elevators and kindred equipment are safe to operate; and
- (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying boiler, pressure system, amusement ride, and elevator and kindred equipment are being brought into full compliance with the applicable standards and rules adopted pursuant to this chapter; provided that effective July 1, 2000, the period between an initial safety inspection of a boiler, pressure system, amusement ride, or elevator and kindred equipment, or the inspection used as the basis for the issuance of a permit to operate, and any subsequent inspection, shall not exceed seven months nor be less than five months;
- [(7)] Certificates of inspection shall be issued for amusement rides after each inspection, if the rides are found to be safe for use;
- [(8)] (7) No boiler, pressure system, amusement ride, or elevator and kindred equipment which are required to be inspected by this chapter or by any rule adopted pursuant to this chapter shall be operated, except as necessary to install, repair, or test, unless a permit to operate [or certificate of inspection] has been authorized or issued by this department and remains valid; and
- [(9)] (8) The department, upon the application of any owner or user or other person affected thereby, may grant time that may reasonably be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time."

SECTION 2. Section 397-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any owner, user, contractor, or vendor who violates this chapter, or any safety standard promulgated hereunder or any rule [or regulation] issued under the authority of this chapter, or who violates or fails to comply with any order made under or by virtue of this chapter or under or by virtue of any rule [or regulation] of the department, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguard, notice, order, or warning required by this chapter or by any rule [or regulation] of the department shall be assessed a civil penalty of not more than [\$1,000] \$10,000 for each such violation."

SECTION 3. Act 142, Session Laws of Hawaii 1998, is amended by amending section 9 to read as follows:

"SECTION 9. This Act shall take effect upon its approval and shall be repealed on July 31, 2003, except that section 3 of this Act shall not be repealed;

provided that sections 36-27 and 397-5(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act[.]; and provided further that the amendments made to section 36-27, Hawaii Revised Statutes, by Act 142, Session Laws of Hawaii 1998, shall not be repealed when section 36-27, Hawaii Revised Statutes, is reenacted pursuant to section 13 of Act 216, Session Laws of Hawaii 1997.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved July 2, 1999.)