



**Testimony to the House Committees on Labor & Public Employment and Economic
Revitalization and Business
Friday, January 27, 2012
10:30 a.m.
State Capitol - Conference Room 309**

RE: HOUSE BILL NO. 1699 RELATING TO LABOR

Chairs Rhoads and McKelvey, Vice Chairs Yamashita and Choy, and members of the committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's opposition to House Bill No. 1699 relating to Labor.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

HB 1699 requires employers to provide meal breaks for employees and imposes penalties for failure to provide meal breaks. The Chamber believes the Bill is unnecessary and opposes the Bill for the following reasons:

First, the Bill will cause confusion and litigation regarding the calculation of overtime payments due to the unintended effect of altering current law on calculating employees' regular rate of pay for overtime purposes. For example, under FLSA, employers can exclude premium pay given for work on holidays or weekends when calculating the employee's regular rate of pay for overtime purposes. Under Hawaii law, if the bill passes, an employer would have to factor in premium pay in calculating the regular rate because the only method of calculating the regular rate of pay under Hawaii law is to take the total earnings for the period and divide by the number of hours worked.

Second, a meal break, we believe is unnecessary. Most employers already provide meal breaks, and in many cases provide meal breaks longer than 30 minutes.

Third, the bill will hurt employees who would rather work through their lunch or take shorter breaks in order to shorten their work day. Employers who currently operate ten hour shifts would be

required to force employees to take an unpaid 30 minute meal break before the fifth and again before the tenth hour of work, thereby prolonging an already long work day.

Fourth, the bill will require employers to carefully monitor employees to ensure that they take meal breaks before 5 continuous hours of work have passed. To avoid paying this penalty, employers will have to send supervisors to every employee's cubicle and work location to make sure that employees have taken lunch breaks on time.

Finally, this bill imposes a significant administrative weight on employers, requiring them to create procedures to record meal breaks and to record whether a person elects to forego a meal break in order to obtain overtime pay. The bill may require employers to revise, rewrite or reprogram their payroll systems to recognize the one-half hour per day overtime allocation.

Hawaii's businesses are in the process of recovering from an economic stagnation. The Chamber firmly believes that the enactment of this mandate at this time will greatly hamper the efforts to revitalize the economic climate. Hawaii's business community is at a critical point -- where any additional mandates could mean the difference between continued existence or bankruptcy. As evidenced by recent media accounts, many local establishments, some of which have faithfully served consumers for generations, are going out of business.

Overall, this bill will significantly increase the cost of doing business in Hawaii. For these reasons, the Chamber opposes this measure. Thank you very much for the opportunity to testify.