

HAWAII ADMINISTRATIVE RULES
TITLE 12
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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SUBCHAPTER 2

THEATRICAL EMPLOYMENT

Historical Note: Subchapter 2, chapter 25 of title 12 is based substantially upon "Regulation XIV, Relating to Minors in Theatrical Employment" of the Department of Labor and Industrial Relations. [Eff. 11/1/51; am 3/22/65; am 7/18/74; R Oct. 5, 1981]

§12-25-21 Definitions. As used in this subchapter:

"Department" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Director" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Employer" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Gainful occupation" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Theatrical employment" shall be as defined in section 390-1, Hawaii Revised Statutes. [Eff. Oct. 5, 1981]

(Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-22 Theatrical employment permitted. A minor under fourteen years of age may be employed or permitted to work in theatrical employment provided that:

- (1) A written consent to the employment is filed with the director by a guardian or parent with whom the minor resides; or, if the guardian or parent is not a resident of the State, the person who is primarily responsible for the care and custody of the minor;
- (2) The minor is accompanied by and is under the immediate and direct control of the person who is required to file the consent as herein provided or by a responsible adult person designated by the person who files the consent;
- (3) The employer submits to the director, whenever employment would occur during a school year, a statement signed by an authorized school official indicating that the attendance at school and the school work of the minor are satisfactory;
- (4) The employment does not injuriously affect the health, safety, or well-being of the minor or contribute to the minor's delinquency;
- (5) Where liquor is sold for consumption on the premises, the licensee shall comply with the rules of the appropriate county liquor commission relating to employment of minors as entertainers;
- (6) The work is performed during periods when the minor is not legally required to attend school or when the minor is excused by school authorities from attending school; and
- (7) The employer of the minor procures and keeps on file a valid certificate of employment. [Eff. Oct. 5, 1981; am 12/27/99] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-23 Hours and conditions of employment. (a) A minor under sixteen years of age may be employed or permitted to work in theatrical employment as follows:

- (1) A minor under six years of age shall not work later than 7:00 p.m.
- (2) For minors six years of age or over but under sixteen, the following limitations shall apply:
 - (A) On any night preceding a day when the minor is not legally required to attend school:
 - (i) A minor six years of age or over but under fourteen shall not work later than 10:30 p.m.;
 - (ii) A minor fourteen years of age or over but under sixteen shall not work later than 11:30 p.m.
 - (B) On any night preceding a day when the minor is legally required to attend school:
 - (i) A minor six years of age or over but under fourteen shall not work later than 8:30 p.m.;
 - (ii) A minor fourteen years of age or over but under sixteen shall not work later than 9:30 p.m.
- (3) The combined hours of work and hours in school shall not exceed ten in a day.
- (4) The employment does not exceed four nights in any calendar week.
- (5) A minor shall not engage in theatrical employment more than the following number of hours in any one day:
 - (A) A minor under six years of age, not more than two hours;
 - (B) A minor six years of age or over but under ten, not more than three hours;
 - (C) A minor ten years of age or over but under fourteen, not more than four hours; and
 - (D) A minor fourteen years of age or over but under sixteen, not more than eight hours.
- (b) Time spent by a minor in learning, practicing, or rehearsing any of the arts, such as singing or dancing, shall be counted as theatrical employment time if the learning, practicing, or rehearsing is in connection with a public performance. Time spent in waiting to appear in a performance shall also count as theatrical employment time.

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(c) Upon an employer's written application showing good cause, the director may grant an extension of the time, hours, and days to be worked; provided that the employer of the minor and the person who is responsible for the control of the minor as required in section 12-25-22(2) shall adhere to any other conditions that may be prescribed by the director, such as adequate rest periods, rest facilities, transportation, compensation, safety, supervision, and tutoring. As used in this subsection, "good cause" includes practical difficulties and undue hardship by the employer in complying with the work hour restrictions. The director shall grant or deny a request for variance from the work hour restrictions within sixty days from the date that all required information is received by the department. [Eff. Oct. 5, 1981; am 12/27/99] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-24 Application and issuance of employment certificate. (a) Application for employment of a minor in theatrical employment shall be made by the employer on forms furnished by the department. The application shall be completed and signed by the employer, parent, and minor.

(b) Upon receipt of an application, the director or an authorized representative may issue the employment certificate under the terms and conditions established in this subchapter. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §§390-2, 390-3)

§12-25-25 Revocation or cancellation of employment certificate. A certificate for theatrical employment may be revoked or cancelled for cause at any time by the director after affording all interested parties an opportunity for a hearing. Cause shall include:

- (1) Violation of this subchapter or chapter 390, Hawaii Revised Statutes; or
- (2) Falsification of any information required by the application; or
- (3) Disapproval or withdrawal of approval of the minor's employment by an authorized official of the school attended by the minor; or
- (4) Finding by the director that the employment is detrimental to the health, safety, or well-being of the minor or will contribute to the minor's delinquency. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §§390-2, 390-4)

§12-25-26 Reconsideration and appeal. (a) Any person aggrieved by the director's action in denying, granting, revoking, or cancelling of an employment certificate for theatrical employment may file, within ten days after the director's action, a written request for reconsideration by the director.

(b) A request for reconsideration shall be granted where the applicant shows that there is additional evidence which may materially affect the decision and that there are reasonable grounds for failure to offer such evidence prior to the director's action.

(c) Any person aggrieved by the action of the director in denying a request for reconsideration may file, within thirty days after denial, an appeal for judicial review under section 91-14, Hawaii Revised Statutes. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §§91-14, 390-2 to 390-4)

§§12-25-27 to 12-25-30 (Reserved)

SUBCHAPTER 3

COFFEE HARVESTING

Historical Note: Subchapter 3, chapter 25 of title 12 is based substantially upon "Rule XXV, Relating to Employment of Minors in Coffee Harvesting" of the Department of Labor and Industrial Relations. [Eff. 9/1/60; R Oct. 5, 1981]

§12-25-31 Definitions. As used in this subchapter:

"Coffee harvesting" means gainful occupation in the picking, stripping, raking, or collecting of coffee berries, or any other activity incidental or necessary to the harvesting thereof, as distinguished from processing, pulping, demucilaging, drying, hulling, or grading of coffee.

"Department" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Director" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Gainful occupation" shall be as defined in section 390-1, Hawaii Revised Statutes. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-32 Coffee harvesting employment permitted. Subject to all the conditions imposed by this subchapter, minors between ten and fourteen years of age may be employed or permitted to work in coffee harvesting, provided that each minor, while performing such work, is under the direct supervision of the minor's parent or legal guardian. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-33 Hours and conditions of employment. (a) Minors between ten and fourteen years of age may engage in coffee harvesting during the hours from six o'clock a.m. to six o'clock p.m. on any day when the school at which the minors are registered is not in session, and subject to the following limitations:

(1) The minors shall not be permitted to work for more than two consecutive hours without a rest period of at least fifteen minutes, nor for more than four consecutive hours without a meal period of at least one hour; and

(2) The minors shall not be permitted to work for more than six hours during any one day or more than thirty hours in any one week nor for more than five consecutive days.

(b) Minors below the age of twelve years shall not be permitted to use any harvesting equipment while engaged in coffee harvesting except holding hooks which are free of any attachments or accessories and baskets or containers used to carry coffee berries, nor shall they be permitted to carry loads in excess of fifteen pounds. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-34 Employment certificate. No minor under eighteen years of age shall be employed or permitted to work in coffee harvesting unless an employment certificate shall have been obtained pursuant to chapter 390, Hawaii Revised Statutes. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: §390-2)

§§12-25-35 to 12-25-40 (Reserved)

SUBCHAPTER 4

HAZARDOUS OCCUPATIONS

Historical Note: Subchapter 4, chapter 25 of title 12 is based substantially upon "Regulation XXXIII, Relating to Hazardous Occupations for Minors Under Eighteen Years of Age" of the Department of Labor and Industrial Relations. [Eff. 10/2/69; R Oct. 5, 1981]

§12-25-41 Definitions. As used in this subchapter:

"Department" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Employment" means any service performed by an individual which produces pecuniary gain for any person or persons connected therewith. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-42 Occupations of motor vehicle driver and outside helper. (a) As used in this section:

"Driver" means any individual who, in the course of employment, drives a motor vehicle at any time;

"Gross vehicle weight" includes the truck chassis with lubricants, water and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body, and special chassis and body equipment, and payload;

"Motor vehicle" means any automobile, truck, truck-tractor, trailer, semi-trailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails;

"Outside helper" means any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(b) Except as otherwise provided in this section, the occupations of motor vehicle driver and outside helper involving work on any public road or highway, in or about any mine (including open-pit mine or quarry), or place where logging or sawmill operations are in progress, or in any excavation of the type identified in section 12-25-54 are declared hazardous for minors under eighteen years of age.

(c) Operation of automobiles or trucks not exceeding six thousand pounds gross vehicle weight by a minor who has attained the age of sixteen shall not be deemed hazardous if:

- (1) The operation is restricted to daylight hours;
- (2) The minor holds a valid license for the type of driving involved in the job to be performed; and
- (3) The vehicle is equipped with a seat belt or similar device for the driver and for each helper and the employer has instructed each minor to use the belts or other safety devices, and has taken appropriate steps to assure such use.

This subsection shall not apply to any occupation of motor vehicle driver which involves towing of vehicles. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-2)

§12-25-43 Occupations in operation of power-driven woodworking machines. (a) As used in this section:

"Off-bearing" means the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include:

- (1) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or some mechanical means such as a moving belt or expulsion roller; and
- (2) The following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation:
 - (A) The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another;
 - (B) The piling, stacking, or arranging of materials for feeding into a machine by another person; and
 - (C) The sorting, tying, bundling, or loading of materials.

"Power-driven woodworking machines" means all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(b) Except as otherwise provided in this section, the following occupations involved in the operation of power-driven woodworking machines are declared hazardous for minors under eighteen years of age:

- (1) Operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding;
 - (2) Setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines; and
 - (3) Off-bearing from circular saws and from guillotine-action veneer clippers.
- (c) This section shall not apply to the employment of any apprentice, trainee, student-learner, or enrollee if:

- (1) The apprentice or trainee is a party to an apprenticeship or trainee agreement registered with the department within thirty days after execution of the agreement and the work of the apprentice or trainee in the occupation declared hazardous is incidental to the training; or
- (2) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a bona fide vocational training program authorized and approved by the department of education; provided that:
 - (A) The employment is intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person; and
 - (B) Safety instructions are given by the school and correlated by the employer with on-the-job training; or
- (3) The enrollee is enrolled in a work training program approved and conducted by or under the auspices of a government agency. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-44 Occupations involving exposure to radioactive substances and to ionizing radiation. (a) As used in this section:

"Ionizing radiation" means alpha and beta particles, electrons, protons, neutrons, gamma and X-ray, and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-rays.

"Self-luminous compound" means any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.

"Workroom" includes the entire area bounded by walls of solid material and extending from floor to ceiling.

(b) The following occupations involving exposure to radioactive substances and to ionizing radiation are declared hazardous for minors under eighteen years of age:

- (1) Any work in any workroom in which:
 - (A) Radium is stored or used in the manufacture of self-luminous compound;
 - (B) Self-luminous compound is made, processed, or packaged;
 - (C) Self-luminous compound is stored, used, or worked upon;
 - (D) Incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged; and
 - (E) Other radioactive substances are present in the air in average concentrations exceeding ten per cent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the forty-hour week column on table one of the U.S. Department of Commerce, National Bureau of Standards Handbook No. 69 entitled "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure", issued June 5, 1959; and
- (2) Any other work which involves exposure to ionizing radiations in excess of the limits set for minors under eighteen years of age by the occupational safety and health standards of the department. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-45 Occupations involved in the operation of elevators and other power-driven hoisting apparatus. (a) As used in this section:

"Crane" means a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term includes all types of cranes, such as cantilever gantry, crawler, gantry, hammer-head, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

"Derrick" means a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term includes all types of derricks, such as A-frame, breast, Chicago boom, ginpole, guy, and stiff-leg derrick.

"Elevator" means any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but does not include dumbwaiters.

"High-lift truck" means a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term includes high-lift trucks known under such names as fork lifts, fork trucks, fork-lift trucks tiering trucks, or stacking trucks, but does not include low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

"Hoist" means a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term includes all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.

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"Manlift" means a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves, or sprockets at the top and bottom.

(b) The following occupations involved in the operation of power-driven hoisting apparatus are declared hazardous for minors under eighteen years of age:

- (1) Operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity;
- (2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator; and
- (3) Assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(c) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator by a minor who has attained the age of sixteen; provided that:

- (1) The exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend;
- (2) All hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked;
- (3) The elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and
- (4) The elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal, and a final limit switch which will prevent the movement in either direction and will open in case of excessive over-travel by the car.

(d) For the purpose of subsection (c), the term "automatic elevator" means a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic; and the term "automatic signal operation elevator" means an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors -- from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-46 Occupations involved in the operation of power-driven metal forming, punching, and shearing machines. (a) As used in this section:

"Forming, punching, and shearing machines" means power-driven metal working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

"Helper" means a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

"Operator" means a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, or any other functions directly involved in the operation of the machine.

(b) Except as otherwise provided in this section, the occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines are declared hazardous for minors under eighteen years of age:

- (1) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills;
- (2) All pressing or punching machines, such as punch presses, power presses, and plate punches, except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies;
- (3) All bending machines, such as apron brakes and press brakes;
- (4) All hammering machines, such as drop hammers and power hammers; and
- (5) All shearing machines, such as guillotine or squaring shears, alligator shears, and rotary shears.

The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines, including those with automatic feed and ejection, are also declared hazardous for said minors.

(c) This section shall not apply to the employment of any apprentice, trainee, student-learner, or enrollee under conditions prescribed in section 12-25-43. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-47 Occupations in or about slaughtering and meat packing establishments and rendering plants. (a) As used in this section:

"Boning occupations" means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

"Curing cellar" includes the workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include the workroom or workplace where meats are smoked.

"Hide cellar" includes the workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

"Killing floor" includes the workroom or workplace where cattle, calves, hogs, sheep, lambs, goats or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

"Rendering plants" means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

"Slaughtering and meat packing establishments" means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term shall also include establishments which manufacture or process meat products or sausage casings from such animals.

(b) Except as otherwise provided in this section, the following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail, or service establishments are declared hazardous for minors under eighteen years of age:

- (1) All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, handtruckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time;
- (2) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines;
- (3) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products;
- (4) All occupations involved in the operation or feeding of the following power-driven meat processing machines, including setting up, adjusting, repairing, oiling, or cleaning meat patty forming machines, meat and bone cutting saws, knives (except bacon slicing machines), head-splitters, and guillotine cutters; snout-pullers and jaw-pullers; skinning machines; horizontal rotary washing machines; casing cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines);
- (5) All boning occupations;
- (6) All occupations that involve the pushing or dropping of any suspended carcass, half-carcass, or quarter-carcass; and
- (7) All occupations involving hand-lifting or hand-carrying any carcass or half-carcass of beef, pork, or horse, or any quarter-carcass of beef or horse.

(c) This section shall not apply to:

- (1) Minors who have attained the age of sixteen engaged in the killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor; or
- (2) The employment of any apprentice, trainee, student-learner, or enrollee under conditions prescribed in section 12-25-43. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-48 Occupations involved in the operation of certain power-driven bakery machines. The following occupations involved in the operation of power-driven bakery machines are declared hazardous for minors under eighteen years of age:

- (1) Operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer, batter mixer, bread dividing, rounding, or molding machine, dough brake, dough sheeter, combination bread slicing and wrapping machine, or cake cutting-band saw; and
- (2) Setting up or adjusting a cookie or cracker machine. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-49 Occupations involved in the operation of certain power-driven paper products machines.

(a) As used in this section:

"Operating or assisting to operate" means all work which involves starting or stopping a machine covered by this section, placing materials into or removing them from the machine, or any other work directly involved in operating the machine.

"Paper products machine" means a power-driven machine used in the remanufacture or conversion of paper or pulp into a finished product. The term is understood to apply to such a machine whether it is used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or non-manufacturing establishment.

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(b) Except as otherwise provided in this section, the following occupations are declared hazardous for minors under eighteen years of age:

- (1) Operating or assisting to operate any of the following power-driven paper products machines:
 - (A) Arm-type wire, stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap paper baler, or vertical slotter; and
 - (B) Platen die-cutting press, platen printing press or punch press which involves hand-feeding of the machine; and
- (2) Setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand-feeding.
- (c) This section shall not apply to the employment of any apprentice, trainee, student-learner, or enrollee under conditions prescribed in section 12-25-43. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-50 Occupations involved in the manufacture of brick, tile, and kindred products. (a) As used in this section:

"Clay construction products" means brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. The term does not include non-structural bearing clay products as ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor does the term include non-clay construction products such as sand-lime brick, glass brick, or non-clay refractories.

"Silica brick or other silica refractories" means refractory products produced from raw materials containing free silica as their train constituent.

(b) The following occupations involved in the manufacture of clay construction products and of silica refractory products are declared hazardous for minors under eighteen years of age:

- (1) All work in or about establishments in which clay construction products are manufactured, except:
 - (A) Work in storage and shipping;
 - (B) Work in offices, laboratories, and storerooms; and
 - (C) Work in the drying departments of plants manufacturing sewer pipe; and
- (2) All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.

Nothing in this section shall be construed as permitting employment of minors in any occupations declared hazardous by any other section of this subchapter. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-51 Occupations involved in the operation of circular saws, band saws, and guillotine shears.

(a) As used in this section:

"Band saw" means a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

"Circular saw" means a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

"Guillotine shear" means a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

"Helper" means a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machines.

"Machines equipped with full automatic feed and ejection" means machines covered by this section which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any body part in the point-of-operation area.

"Operator" means a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(b) Except as otherwise provided in this section, the following occupations are declared hazardous for minors under eighteen years of age:

- (1) The occupations of operator or helper on power-driven, fixed, or portable machines such as circular saws, band saws, and guillotine shears except those equipped with full automatic feed and ejection; and
- (2) The occupations of setting up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(c) This section shall not apply to the employment of any apprentice, trainee, student-learner, or enrollee under conditions prescribed in section 12-25-43. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-52 Occupations involved in wrecking, demolition, and shipbreaking operations. (a) As used in this section, "wrecking, demolition, and shipbreaking operations" means all work, including clean up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship, or other vessel.

(b) All occupations in wrecking, demolition, and shipbreaking operations are declared hazardous for minors under eighteen years of age. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-53 Occupations involved in roofing operations. (a) As used in this section:

"Roofing operations" means all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt, or wood) to the roof of a building or other structures. The term includes all work performed in connection with the installation of roofs, including related metal work such as flashing, and alterations, additions, maintenance and repair, including painting and coating; of existing roofs. The term does not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(b) Except as otherwise provided in this section, all occupations in roofing operations are declared hazardous for minors under eighteen years of age.

(c) This section shall not apply to the employment of any apprentice, trainee, student-learner, or enrollee under conditions prescribed in section 12-25-43. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-54 Occupations involved in excavation operations. (a) Except as otherwise provided in this section, the following occupations in excavation operations are declared hazardous for minors under eighteen years of age:

- (1) Excavating, working in, or backfilling (refilling) trenches, except:
 - (A) Manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point; or
 - (B) Working in trenches that do not exceed four feet in depth at any point;
- (2) Excavating for buildings or other structures or working in such excavations, except:
 - (A) Manually excavating to a depth not to exceed four feet below any ground surface adjoining the excavation; or
 - (B) Working in an excavation not exceeding such depth; or
 - (C) Working in an excavation where the side walls are shored or sloped to the angle of repose as required by the occupational safety and health standards of the department;
- (3) Working within tunnels prior to the completion of all driving and shoring operations; and
- (4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) This section shall not apply to the employment of any apprentice, trainee, student-learner, or enrollee under conditions prescribed in section 12-25-43. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-55 Occupations in connection with mining. (a) As used in this section, "all occupations in connection with mining" means all work performed:

- (1) Underground in mines and quarries;
- (2) On the surface at underground mines and underground quarries;
- (3) In or about open-cut mines, open quarries, clay pits, and sand and gravel operations;
- (4) At or about placer mining operations;
- (5) At or about dredging operations for clay, sand, or gravel;
- (6) At or about bore-hole mining operations;
- (7) In or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and
- (8) At or about any other crushing, grinding, screening, sizing, washing, or cleaning operations performed upon the extracted minerals except where such operations are performed as a part of a manufacturing process.

The term does not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electrometallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded, and further processed, or plants manufacturing clay, glass, or ceramic products. Neither does the term include work performed in petroleum production, natural-gas production, nor dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

(b) All occupations in connection with mining are declared hazardous for minors under eighteen years of age except the following:

- (1) Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground;
- (2) Work in the operation and maintenance of living quarters;
- (3) Work outside the mine in surveying, in the repair and maintenance of roads, and in general clean up about the mine property such as clearing brush and digging drainage ditches;
- (4) Work of track crews in the building and maintaining of sections of railroad track located in those areas of open-cut metal mines where mining and haulage activities are not being conducted at the time and places that such building and maintenance work is being done;
- (5) Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations; and
- (6) The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process:
 - (A) Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters;
 - (B) Hand-sorting at picking table or picking belt; and
 - (C) General clean up work.

(c) Nothing in this section shall be construed as permitting employment of minors in any occupation deemed hazardous by any other section. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-56 Occupations in logging and in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill. (a) As used in this section:

"All occupations in logging" means all work performed in connection with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting, and unloading of such products in connection with logging; the constructing, repairing, and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency fire-fighting.

"All occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill" means all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of such mills; and other work performed in connection with the operations of any sawmill, lath mill, shingle mill, or cooperage stock mill. The term shall not include work performed in the planing mill department or other remanufacturing department of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

(b) All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill are declared hazardous for minors under eighteen years of age.

(c) This section shall not apply to the employment in the following occupations of minors who have attained the age of sixteen:

- (1) Exceptions applying to logging:
 - (A) Work in offices or in the repair or maintenance shops;
 - (B) Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps;
 - (C) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining fire-fighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patroller away from the actual logging operations; provided that the provisions of this subparagraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles;
 - (D) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this section; and
 - (E) Work in the feeding or care of animals; and
- (2) Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage stock mill; provided that these exceptions do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained; and further provided that these exceptions do not apply to work which entails entering the sawmill building:

- (A) Work in offices or in repair or maintenance shops;
- (B) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter;
- (C) Pulling lumber from the dry chain;
- (D) Clean up in the lumberyard;
- (E) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment;
- (F) Clerical work in yards or shipping sheds, such as done by order clerks, counters, and shipping clerks;
- (G) Clean up work outside shake and shingle mills, except when the mill is in operation;
- (H) Splitting shakes manually from pre-cut and split blocks with a froe and mallet, except inside the mill building or cover;
- (I) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover; and
- (J) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury to the minor. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-57 Occupations involved in agricultural operations. The following occupations in agriculture are declared hazardous for minors under sixteen years of age:

- (1) Transporting, transferring, or applying anhydrous ammonia;
- (2) Any occupation, including handling, applying, cleaning, or decontaminating equipment, associated with any pesticide restricted by the rules of the state department of agriculture or the occupational safety and health standards of the department;
- (3) Operating a tractor of over twenty PTO (power take-off) horsepower or connecting or disconnecting an implement or any of its parts to or from such tractor;
- (4) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any work involving physical contact associated with the operation of) any of the following machines:
 - (A) Corn picker, rotary flailing type forage harvester;
 - (B) Feed grinder, crop dryer, silo filler, roughage blower, auger conveyor, or the unloading mechanism of a non-gravity type self-unloading wagon or trailer;
 - (C) Non-walking-type rotary tiller, post-hole digger and post-driver;
 - (D) Earthmoving, trenching;
 - (E) Fork lift, potato combine; and
 - (F) Power-driven circular, band, or chain saw;
- (5) Working in a yard, pen, or stall occupied by a bull, boar, stud horse, cow with newborn calf, or sow with newborn pig;
- (6) Working from a ladder or scaffold at a height of over twenty feet;
- (7) Felling, bucking, skidding, loading, or unloading timber with a butt diameter of more than six inches; and
- (8) Working inside any storage of a gas-tight type nature, inside a silo within two weeks after silage has been added, inside a silo when a top unloading device is in operating position, or inside a manure pit. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-58 Additional hazardous occupations for minors under sixteen. In addition to occupations hereinbefore declared hazardous, the following occupations are declared hazardous for minors under sixteen years of age:

- (1) Manufacturing or processing occupations, including occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured or otherwise processed;
- (2) Occupations which involve the operation or tending of hoisting apparatus or any power-driven machinery other than office machines;
- (3) Public messenger service;
- (4) Occupations, except such office work (including ticket office), or sales work as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations, in connection with:
 - (A) Transportation of persons or property by rail, highway, air, water, pipeline, or other means; or
 - (B) Warehousing and storage; or
 - (C) Construction (including demolition and repair);
- (5) Occupation of a motor vehicle helper whose work includes riding on the vehicle inside the cab for the purpose of assisting in transporting or delivering goods; and

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- (6) Occupations in retail, food service, and gasoline establishments as follows:
 - (A) Work performed in or about boiler or engine rooms;
 - (B) Work in connection with maintenance or repair of the establishment, machines, or equipment;
 - (C) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or other substitutes;
 - (D) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;
 - (E) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery type mixers;
 - (F) Work in freezers and meat coolers, and all work in the preparation of meats for sale except as described in section 12-25-59;
 - (G) Loading and unloading goods to and from trucks, trailer-containers, or conveyors; and
 - (H) All occupations in warehouses except office and clerical work. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§12-25-59 Non-hazardous occupations for minors fourteen years of age and over in retail, food service, and gasoline service establishments. The following occupations in retail, food service, and gasoline service establishments shall not be deemed hazardous for minors who have attained the age of fourteen:

- (1) Office and clerical work, including the operation of office machines;
- (2) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;
- (3) Price marking and tagging by hand or by machine, assembling orders, packing, and shelving;
- (4) Bagging and carrying out customers' orders;
- (5) Errand and delivery work by foot, bicycle, and public transportation;
- (6) Clean up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers or cutters;
- (7) Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk-shake blenders, and coffee grinders;
- (8) Work in connection with cars and trucks if confined to dispensing gasoline and oil, courtesy service, car cleaning, washing and polishing, and other occupations permitted by this section; but not including work involving the use of pits, racks, or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring; and
- (9) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing, and stocking goods when performed in areas physically separate from those where goods are manufactured or processed or stored in warehouses. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

§§12-25-60 to 12-25-70 (Reserved)

SUBCHAPTER 5

FIFTEEN-YEAR-OLD MINORS IN PINEAPPLE HARVESTING

Historical Note: Subchapter 5, chapter 25 of title 12 is based substantially upon "Regulation XXXV, Relating to Employment of Fifteen-Year-Old Minors in Pineapple Harvesting" of the Department of Labor and Industrial Relations. [Eff. 4/25/70; R Oct. 5, 1981]

§12-25-71 Definitions. As used in this subchapter:

"Department" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Director" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Employer" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Gainful occupation" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Pineapple harvesting" means gainful occupation of picking or collecting of pineapples and seeds or any other activity incidental or necessary to this harvesting. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-6)

§12-25-72 Variance for pineapple harvesting. Subject to all the conditions imposed by this subchapter, a variance is granted from the number of hours in any one week and the hour of termination of the workday as specified in section 390-2(c)(4), Hawaii Revised Statutes. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-6)

§12-25-73 Hours and conditions of employment. (a) During the period from June 1 through the day before Labor Day of each year, minors who have attained the age of fifteen but not sixteen may engage in pineapple harvesting not more than forty-eight hours in a workweek nor more than eight hours in a day and from 6:00 a.m. of a workday to not later than 12:30 a.m. of the following day.

(b) The minors shall be employed in the fields contingent on the following:

- (1) That they will not at any time be permitted on the harvesting machine itself or on the truck attached to it;
- (2) That they will be carefully supervised and particular attention given to them at the time the harvester is in process of being turned; and
- (3) That they will wear protective goggles, gloves, and appropriate clothing at all times while working.

(c) The employer of the minors shall also comply with the following:

- (1) Provide lighting sufficient to illuminate the area in which the minor is working;
- (2) Notify the parent or guardian of a non-boarding minor within one workday if the minor does not report to work as scheduled;
- (3) Place the minor under immediate supervision of a supervisor trained in first aid and equipped with a first aid kit;
- (4) Where lodging is provided, have a counselor to look after the welfare of the minors during non-working hours;
- (5) Provide supervision in the turnout area at the beginning and at the end of work and a supervisor to remain in the area after work until the last fifteen-year-old minor has left the area;
- (6) Ascertain that satisfactory transportation arrangements to and from the minor's home have been made before assigning a minor to work beyond 9:00 p.m.;
- (7) Obtain written consent from the minor's parent or guardian to employ the minor after 9:00 p.m. each workday and more than forty hours each week. A copy of this consent must be kept on file, and upon request made available to the department for examination;
- (8) Obtain signed statement from the parent acknowledging that the parent has received a copy of and understands the curfew ordinance or rule of the county in which the minor is employed beyond 9:00 p.m.; and
- (9) Assign minor to work in a crew or gang where the majority of workers are not older than seventeen years of age. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-6)

§12-25-74 Employment certificate. No minor who has attained the age of fifteen but not sixteen shall be employed or permitted to work in pineapple harvesting unless a certificate of employment shall have been obtained pursuant to section 390-3, Hawaii Revised Statutes. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §§390-6)

§§12-25-75 to 12-25-80 (Reserved)

SUBCHAPTER 6

EXEMPT EMPLOYMENT IN A RELIGIOUS, CHARITABLE,
OR NON-PROFIT ORGANIZATION

Historical Note: Subchapter 6, chapter 25 of title 12 is based substantially upon "Regulation XXXVI, Relating to Minors Employed by a Religious, Charitable, or Non-Profit Organization in Exempt Employment" of the Department of Labor and Industrial Relations. [Eff. 2/11/71; R Oct. 5, 1981]

§12-25-81 Definitions. As used in this subchapter:

"Department" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Director" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Employer" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Employment" means any service performed by an individual which produces pecuniary gain for any person or persons connected therewith.

"Gainful occupation" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Religious, charitable, or non-profit organization" means a corporation, unincorporated association, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, or non-profit purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-5)

§12-25-82 Exempt employment. Employment as defined in this subchapter does not include services by any minor under eighteen years of age employed in a non-hazardous occupation by a religious, charitable, or non-profit organization during periods when the minor is not legally required to attend school or is excused by school authorities from attending school, if performed:

- (1) In a voluntary capacity by recipient of aid therefrom with the service as incidental to or in return for the aid received and for which the recipient expects no wages; or
- (2) By a student who is enrolled and regularly attending classes and in return for board, lodging, or tuition furnished in whole or in part by the school; or
- (3) As a member of an organized youth club or a student of a school in a voluntary and unpaid capacity on projects of the club or school; or
- (4) In theatrical employment where:
 - (A) All net proceeds of the entertainment accrue to the organization without any earnings going to a promoter; and
 - (B) All persons having any connection with the direction, production, or performances of the show donate their services and expect no wages except where compensation is required by a collective bargaining agreement; or
- (5) As a handicapped client in a sheltered workshop. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-5)

§12-25-83 Status determination. Any organization claiming to be religious, charitable, or non-profit may be required to provide information to the department for determination as to its status. [Eff. Oct. 5, 1981] (Auth: HRS §390-6) (Imp: HRS §390-5)