



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Labor and
Workforce Development**

Office of the Commissioner

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Sectional Analysis for HB 79 and SB 40:

Section 1 amends AS 23.05.067(a), by allowing the department of labor and workforce development to receive a greater percentage of the annual service fees that insurers pay.

Section 2 amends AS 23.05.067(a), by phasing out the second injury fund.

Section 3 amends AS 23.05.067(e), by phasing out the second injury fund.

Section 4 amends AS 23.30.015(e), by phasing out the second injury fund.

Section 5 amends AS 23.30.070(a), by making technical changes to allow electronic filing of documents.

Section 6 amends AS 23.30.070(b), by making technical changes to allow electronic filing of documents.

Section 7 amends AS 23.30.070(d), by allowing the division director to prescribe the format for reporting injuries to the division.

Section 8 amends AS 23.30.070(f), by making technical changes to allow electronic filing of documents.

Section 9 amends AS 23.30.075(b), by expanding personal liability for workers' compensation benefits and civil penalties to owners of more types of employing business entities if the business fails to carry workers' compensation insurance.

Section 10 amends AS 23.30.080(e), by moving the failure to insure process from the board to the division.

Section 11 amends AS 23.30.080(f), by allowing the division to assess a civil penalty directly rather than petitioning the board to set the penalty, simplifying the calculation and maximum civil penalty for a failure to insure for workers' compensation liability, and allowing the division to assess a civil penalty against employers who have engaged in misclassification of workers for the purpose of evading full payment of workers' compensation insurance premiums.

Section 12 amends AS 23.30.080(g), by extending from 7 days to 30 days for an employer to pay an assessed penalty.

Section 13 adds new subsections to AS 23.30.080, providing for penalties for failure to produce records legally required to be kept, providing a process for an employer to dispute a civil penalty

assessment, allowing an employer to pay an assessed civil penalty by payment plan, requiring that employers who agree to a payment plan pay interest, and clarifying penalties may not be suspended.

Section 14 amends AS 23.30.082(a), by providing interest on civil penalties and other civil penalties under the Workers' Compensation Act (Act) accrue to the workers' compensation benefits guaranty fund.

Section 15 amends AS 23.30.085, by establishing a civil penalty for failure to submit proof of insurance to the division within 30 days.

Section 16 amends AS 23.30.097(d), by clarifying when an employer must authorize or deny a provider's written request for medical treatment.

Section 17 amends AS 23.30.098, by adding publications to a list the department of labor and workforce development may incorporate, including future amended versions, into regulation.

Section 18 amends AS 23.30.110(c) by requiring the board to schedule a prehearing conference not later than 30 days after a claim is filed, and at the prehearing conference set discovery deadlines and a hearing date, rather than waiting for an employee to request a hearing.

Section 19 amends AS 23.30.110(d) by ending the practice of permitting non-attorneys to represent parties before the board.

Section 20 adds a new subsection to AS 23.30.110, providing the board shall file its decision not later than 30 days after the hearing record closes.

Section 21 amends AS 23.30.155(a), by making technical changes to allow electronic filing of documents.

Section 22 amends AS 23.30.155(b), by extending the date by which non-medical compensation benefits must be paid and clarifying when medical benefits are due.

Section 23 amends AS 23.30.155(c), by making technical changes to allow electronic filing of documents.

Section 24 amends AS 23.30.155(d), by making technical changes to allow electronic filing of documents, removing the seven day grace period for payment of compensation benefits, and clarifying when an employer's denial of a provider's written request for medical treatment must be filed.

Section 25 amends AS 23.30.155(e), by clarifying when a penalty accrues for late-paid medical benefits, including a provider's written request for medical treatment.

Section 26 amends AS 23.30.155(m), by making technical changes to allow electronic filing of documents.

Section 27 amends AS 23.30.155(q), by allowing employers to pay benefits electronically.

Section 28 amends AS 23.30.165(a), by allowing the workers' compensation benefits guaranty fund to file a lien at the onset of a claim for benefits and allowing the division to file a lien for the amount of an assessed civil penalty.

Section 29 amends AS 23.30.165(d), by allowing the workers' compensation benefits guaranty fund the ability to file a lien at the onset of a claim for benefits and allowing the division to file a lien for the amount of an assessed civil penalty.

Section 30 amends AS 23.30.205, by phasing out the second injury fund, setting an end date for the fund's acceptance of new reimbursement claims, and clarifying the fund will continue to pay reimbursement claims until all liability for previously accepted claims to the second injury fund, and claims ordered to be paid from that fund, have been satisfied.

Section 31 amends AS 23.30.230(a), by providing for a definition of "independent contractor."

Section 32 amends AS 23.30.240, by eliminating the requirement corporate executive officers seek the division's approval before opting out of workers' compensation coverage for themselves, and clarifying the requirements for opting out.

Section 33 amends AS 23.30.247(c), by phasing out the second injury fund.

Section 34 amends AS 23.30.250(a), and expands the basis for a finding of fraud by imposing an affirmative duty on an employee receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits, and allowing the division to assess a civil penalty against employers who have engaged in misclassification of workers for the purpose of evading full payment of workers' compensation insurance premiums.

Section 35 amends AS 23.30.250(b), and expands the basis for a finding of fraud by imposing an affirmative duty on an employee receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits.

Section 36 adds a new subsection to AS 23.30.250, and expands the basis for a finding of fraud by imposing an affirmative duty on an employee receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits, and clarifying what constitutes misclassification of workers for the purpose of evading full payment of workers' compensation insurance premiums.

Section 37 amends AS 23.30.255(a), by clarifying which business entities and individuals are liable for failure to secure compensation.

Section 38 amends AS 23.30.255(b), by clarifying which business entities and individuals are liable for violating AS 23.30.255.

Section 39 adds a new subsection to AS 23.30.260, by eliminating a requirement that the board approve attorney fees as part of a settlement when fees are the sole issue in the settlement that requires board approval.

Section 40 amends AS 23.30.395, by defining "employee."

Section 41 repeals AS 23.30.015(c), 23.30.040, 23.30.205, 23.30.395(35), and AS 37.05.146(c)(12) relating to the second injury fund.

Section 42 repeals AS 23.30.040(f), 23.30.080(d), and 23.30.110(h) relating to the second injury fund, stop work orders, and hearing requests.

Section 43 amends the uncodified law of the State of Alaska, by adding transitional language.

Section 44 amends the uncodified law of the State of Alaska, by adding transitional language and clarifying the balance of the second injury fund will be transferred to the general fund after all liability for previously accepted claims to the second injury fund, and claims ordered to be paid from that fund, have been satisfied.

Section 45 amends the uncodified law of the State of Alaska, by authorizing the department to initiate the regulatory process before the effective date.

Section 46 amends the uncodified law of the State of Alaska, by adding conditional effect language that secs. 2, 4, 33, 41 and 44 take effect only after the commissioner of labor and workforce development provides notification that all liability for previously accepted claims to the second injury fund under AS 23.30.205, and claims ordered to be paid from that fund, have been satisfied.

Section 47 clarifies when secs. 2, 4, 33, 41, and 44 take effect.

Section 48 clarifies that sec. 45 takes effect immediately.