

HOUSE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 2/13/17

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to occupational safety and health enforcement penalties; and providing
2 for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 18.60.095(a) is amended to read:

5 (a) An employer who wilfully or repeatedly violates a provision of
6 AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation
7 adopted under AS 18.60.010 - 18.60.105 may be assessed by the commissioner a civil
8 penalty of not more than **the maximum amount or less than the minimum amount**
9 **established by regulation under (i) of this section for each violation** [\$70,000 FOR
10 EACH VIOLATION. EXCEPT WHEN A SETTLEMENT IS NEGOTIATED, THE
11 COMMISSIONER SHALL ASSESS A MINIMUM PENALTY OF \$5,000 FOR A
12 VIOLATION UNDER THIS SUBSECTION THAT WAS COMMITTED
13 WILFULLY].

14 * **Sec. 2.** AS 18.60.095(b) is amended to read:

(b) An employer who receives a citation for a serious violation of a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or of a standard or regulation adopted under AS 18.60.010 - 18.60.105 shall be assessed by the commissioner a civil penalty of **not more than the maximum amount established by regulation under (i) of this section** [UP TO \$7,000 FOR EACH VIOLATION]. For purposes of this subsection, a serious violation is considered to exist if the violation creates in the place of employment a substantial probability of death or serious physical harm. However, a serious violation is not considered to exist if the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

* **Sec. 3.** AS 18.60.095(c) is amended to read:

(c) An employer who receives a citation for a violation of a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105, and the violation is specifically determined not to be of a serious nature, may be assessed by the commissioner a civil penalty of **not more than the maximum amount established by regulation under (i) of this section** [UP TO \$7,000 FOR EACH VIOLATION].

* **Sec. 4.** AS 18.60.095(d) is amended to read:

(d) An employer who fails to correct a violation within the period permitted for its correction for which a citation has been issued may be assessed by the commissioner a civil penalty of not more than **the maximum amount established by regulation under (i) of this section** [\$7,000 FOR EACH DAY DURING WHICH THE FAILURE TO CORRECT THE VIOLATION CONTINUES].

* **Sec. 5.** AS 18.60.095(g) is amended to read:

(g) An employer who violates the posting requirements of AS 18.60.010 - 18.60.105 shall be assessed by the commissioner a civil penalty of **not more than the maximum amount established by regulation under (i) of this section** [UP TO \$7,000 FOR EACH VIOLATION].

* **Sec. 6.** AS 18.60.095 is amended by adding a new subsection to read:

(i) The commissioner shall establish by regulation the maximum civil penalty amounts to be imposed under (a) - (d) and (g) of this section and the minimum civil

1 penalty amount to be imposed for wilful violations under (a) of this section. The
2 maximum amount of the civil penalties may not be greater than the corresponding
3 federal penalty for the specified violations, as provided under 29 U.S.C. 666
4 (Occupational Safety and Health Act of 1970), and must include any adjustments
5 made to the penalties under 28 U.S.C. 2461 (Federal Civil Penalties Inflation
6 Adjustment Act Improvements Act of 2015).

7 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. Sections 1 - 6 of this Act apply to violations occurring on or after
10 the effective date of those sections.

11 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION: REGULATIONS. The Department of Labor and Workforce
14 Development may adopt regulations necessary to implement this Act. The regulations take
15 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
16 law implemented by the regulations.

17 * **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).