

ALASKA STATE LEGISLATURE

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Explanation of Changes

SCS CS HB 79

version: 30-GH1789\|E

The Senate Finance CS contains the sections of HB 79 that:

- Ensure Adequate Funding
- Reduce Administrative Costs
- Define Independent Contractors

The SCS also creates a Legislative Workers' Compensation Working Group to act as an interim committee to continue work and develop new legislation for consideration during the 31st Alaska State Legislature.

Sectional Analysis

Sec. 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.

Sec. 2: Amends AS 23.05.067(e), by clarifying that penalties for late-filed reports accrue to the workers' safety and compensation administration account.

Sec. 3: Amends AS 23.30.070(a), by making technical changes to allow electronic filing of documents.

Sec. 4: Amends AS 23.30.070(b), by making technical changes to allow electronic filing of documents.

Sec. 5: Amends AS 23.30.070(d), by allowing the division director to prescribe the format for reporting injuries to the division.

Sec. 6: Amends AS 23.30.070(f), by making technical changes to allow electronic filing of documents.

Sec. 7: ~~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.~~

Sec. 8: Amends AS 23.30.080(e), by moving the failure to insure process from the board to the division.

Sec. 9: 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.

Sec. 10: Amends AS 23.30.080(g), by extending from 7 days to 30 days for an employer to pay an assessed penalty.

Sec. 11: 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.

Sec. 12: 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.

Sec. 13: Amends AS 23.30.085, by extending from 10 days to 30 days the deadline for reporting termination of coverage, establishing a 30 day deadline for reporting initial coverage, and establishing a civil penalty for failure to submit proof of insurance to the division within 30 days.

Sec. 14: Amends AS 23.30.097(d), by clarifying when an employer must preauthorize or deny a provider's written request for medical treatment.

Sec. 7 [15]: 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.

Sec. 8 [16]: Amends AS 23.30.100(a), by making technical changes to allow electronic filing of documents.

Sec. 9 [17]: Amends AS 23.30.100(b), by making technical changes to allow electronic filing of documents.

Sec. 10 [18]: Amends AS 23.30.100(c), by making technical changes to allow electronic filing of documents.

Sec. 19: 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.

Sec. 20: Amends AS 23.30.110(d) by changes who may represent a claimant at a workers' compensation hearing to any person authorized by regulation of the Alaska Workers' Compensation Board.

Sec. 21: 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.

Sec. 11 [22]: Amends AS 23.30.155(a), by making technical changes to allow electronic filing of documents.

Sec. 23: Amends AS 23.30.155(b), by clarifying the date by which non-medical benefits must be paid.

Sec. 12 [24]: Amends AS 23.30.155(c), by making technical changes to allow electronic filing of documents.

Sec. 13 [25]: 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.

Sec. 26: 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.

Sec. 14 [27]: Amends AS 23.30.155(m), by making technical changes to allow electronic filing of documents.

Sec. 28: Amends AS 23.30.165(a), by allowing an employee or the workers' compensation benefits guaranty fund the ability to file a lien within one year of knowledge of an employee's injury or death and allowing the division to file a lien for the amount of an assessed civil penalty.

Sec. 29: Amends AS 23.30.165(d), by allowing an employee or the workers' compensation benefits guaranty fund the ability to file a lien within one year of knowledge of an employee's injury or death and allowing the division to file a lien for the amount of an assessed civil penalty.

Sec. 15 [30]: Amends AS 23.30.205, by phasing out the second injury fund and setting an end date for notification of possible claims against the second injury fund.

Sec. 16 [31]: 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 accepted 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.

Sec. 17 [32]: Amends AS 23.30.230(a), by providing for a definition of "independent contractor."

Sec. 18 [33]: 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.

Sec. 19 [34]: Amends AS 23.30.247(c), by phasing out the second injury fund.

Sec. 35: Amends AS 23.30.250(a), by allowing the division to assess a civil penalty against employers who have engaged in misclassification of workers.

Sec. 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.

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

Sec. 38: Amends AS 23.30.255(b), by clarifying which business entities and individuals are liable for knowingly disposing of assets with intent to avoid the payment of compensation to an employee or the employee's dependents.

Sec. 20 [39]: Adds a new subsection to AS 23.30.260, 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.

Sec. 21 [40]: Amends AS 23.30.395, by defining "employee."

Sec. 22 [41]: Repeals AS 23.30.040(f), 23.30.080(d), 23.30.110(h), and 23.30.155(q) relating to the second injury fund, stop work orders, hearing requests, and methods of paying benefits.

Sec. 23: **NEW:** Creates a Legislative Workers' Compensation Working Group to act as an interim committee to continue work and develop new legislation for consideration during the 31st Alaska State Legislature.

Sec. 24 [42]: Amends the uncodified law of the State of Alaska, by adding transitional language.

Sec. 25 [43]: Amends the uncodified law of the State of Alaska, by adding transitional language and clarifying that subject to appropriation, the balance of the second injury fund lapses into 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.

Sec. 26 [44]: Amends the uncodified law of the State of Alaska, by authorizing the department to initiate the regulatory process before the effective date.

Sec. 27 [45]: Immediate effective date for sections 15, 16, 23, and 26.

Sec. 28 [46]: Clarifies sec. 19 takes effect September 1, 2018.

Sec. 29 [47]: Clarifies sec. 18 takes effect August 1, 2019