

2d CS FOR SENATE BILL NO. 303(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/12/10

Referred: Today's Calendar

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a subcontractor's, contractor's, and project owner's liability for**
2 **workers' compensation and excluding certain persons from liability for securing the**
3 **payment of workers' compensation benefits to employees; and providing for an effective**
4 **date."**

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

6 * **Section 1.** AS 23.30.045(a) is amended to read:

7 (a) An employer is liable for and shall secure the payment to employees of the
8 compensation payable under AS 23.30.041, 23.30.050, 23.30.095, 23.30.145, and
9 23.30.180 - 23.30.215. If the employer is a subcontractor [AND FAILS TO SECURE
10 THE PAYMENT OF COMPENSATION TO ITS EMPLOYEES], the contractor is
11 liable for and shall secure the payment of the compensation to employees of the
12 subcontractor unless the subcontractor secures the payment [. IF THE
13 EMPLOYER IS A CONTRACTOR AND FAILS TO SECURE THE PAYMENT OF
14 COMPENSATION TO ITS EMPLOYEES OR THE EMPLOYEES OF A

1 SUBCONTRACTOR, THE PROJECT OWNER IS LIABLE FOR AND SHALL
2 SECURE THE PAYMENT OF THE COMPENSATION TO EMPLOYEES OF THE
3 CONTRACTOR AND EMPLOYEES OF A SUBCONTRACTOR, AS
4 APPLICABLE].

5 * **Sec. 2.** AS 23.30.045(f)(1) is amended to read:

6 (1) "contractor" means a person who undertakes by contract
7 performance of certain work for another [BUT DOES NOT INCLUDE A VENDOR
8 WHOSE PRIMARY BUSINESS IS THE SALE OR LEASING OF TOOLS,
9 EQUIPMENT, OTHER GOODS, OR PROPERTY];

10 * **Sec. 3.** AS 23.30.055 is amended to read:

11 **Sec. 23.30.055. Exclusiveness of liability.** The liability of an employer
12 prescribed in AS 23.30.045 is exclusive and in place of all other liability of the
13 employer and any fellow employee to the employee, the employee's legal
14 representative, husband or wife, parents, dependents, next of kin, and anyone
15 otherwise entitled to recover damages from the employer or fellow employee at law or
16 in admiralty on account of the injury or death. The liability of the employer is
17 exclusive even if the employee's claim is barred under AS 23.30.022. However, if an
18 employer fails to secure payment of compensation as required by this chapter, an
19 injured employee or the employee's legal representative in case death results from the
20 injury may elect to claim compensation under this chapter, or to maintain an action
21 against the employer at law or in admiralty for damages on account of the injury or
22 death. In that action, the defendant may not plead as a defense that the injury was
23 caused by the negligence of a fellow servant, or that the employee assumed the risk of
24 the employment, or that the injury was due to the contributory negligence of the
25 employee. [IN THIS SECTION, "EMPLOYER" INCLUDES, IN ADDITION TO
26 THE MEANING GIVEN IN AS 23.30.395, A PERSON WHO, UNDER
27 AS 23.30.045(a), IS LIABLE FOR OR POTENTIALLY LIABLE FOR SECURING
28 PAYMENT OF COMPENSATION.]

29 * **Sec. 4.** AS 23.30.045(f)(2) is repealed.

30 * **Sec. 5.** This Act takes effect January 1, 2011.