



Alaska Timber Insurance Exchange

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March 22, 2010

The Honorable Senator Paskvan
State Capitol Room 7
Juneau AK, 99801

Re: Senate Bill 303

Dear Senator Paskvan:

This letter is to express concerns that the Alaska Timber Insurance Exchange has about Senate Bill 303.

Senate Bill 303 would weaken the exclusive remedy provision in the Alaska workers' compensation statutes. The exclusive remedy provisions currently in place prevent, in most instances, an employee of a subcontractor or a contractor from bringing a third party action against either a project owner or contractor that their employer is working for.

An entity that qualifies as a project owner under the Alaska workers' compensation statutes is considered an employer for exclusive remedy purposes for the employees of either a contractor or subcontractor working for them. This also applies to a contractor in relation to a subcontractor.

Senate Bill 303 would take away these exclusive remedy protections from project owners or contractors even if they were liable for the workers' compensation benefits of an injured employee of a contractor or subcontractor. Currently, a project owner or contractor can become liable for the workers' compensation benefits of a contractor or subcontractor's employees if the contractor or subcontractor does not have workers' compensation insurance.

Prior to the passage of Senate Bill 323 in 2004, project owners and contractors were not treated as employers for exclusive remedy purposes, i.e. an injured employee of a contractor or subcontractor could bring a third party action against a project owner that hired the contractor and subcontractor. Likewise, an injured

Alaska Timber Insurance Exchange

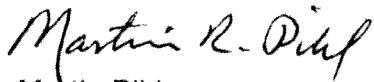
RE: Senate Bill 303

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employee of a subcontractor could bring a third party action against the contractor that hired their employer.

The Alaska Timber Insurance Exchange feels that the existing workers' compensation laws in Alaska provide fair benefits for injured workers without exposing employers, contractors or project owners to excessive liabilities. The proposed changes contained in Senate Bill 303 would add uncertainty and possible expense for those entities that hire contractors or subcontractors to do work for them.

Sincerely,



Martin Pihl

Chairman, Alaska Timber Insurance Exchange Board of Governors

cc: Alaska Timber Insurance Exchange Board of Governors
Alaska Timber Exchange Management Corporation Board of Directors

March 25, 2010

Senator Joe Paskvan, Chair
Senate Labor & Commerce Committee
State Capitol
Juneau, AK 99802

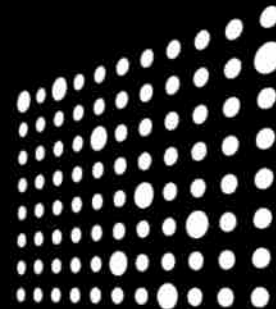
RE: SB 303

Chair Paskvan and Members of the Senate Labor & Commerce Committee,

The Alaska State Chamber in accordance with our legislative position opposes Senate Bill 303 regarding exclusive liability. This position was adopted at the annual legislative fly-in this past fall. This position supports the change regarding exclusive liability made by the legislature in 2004. For your review, please find attached our legislative position on the issue.

Current law obligates the immediate employer and other project participants to pay an injured employee's workers' compensation benefits regardless of fault. In the unfortunate circumstance of an injury, a worker has clear understanding about remedies being provided under the workers' compensation system. Prior to 2004, many subcontractors employed by a larger company (project owner) or employer, were not required to carry worker's compensation insurance. Under current law, which passed in 2004, all employees including subcontractors now carry worker's compensation insurance. This requirement now insures all workers working on the job regardless of who may be their direct employer. Correspondingly, workers' compensation benefits-the employers associated with the project-is the exclusive remedy for potentially liability

Prior to 2004, project owners, contractors and their subs were expending tremendous resources in segregating project and safety programs to defend against potential tort liability. Alaska courts have adopted of what is referred to as the retained control doctrine. Prior to the 2004 reform, parties other than an employee's immediate employer were liable in tort for any injury to an employee of an independent contractor if the party retains any amount of control over the work, including the right to review the contractor's safety practices. See for example, Moloso v. State, 644 P.2d 205 (Alaska 1982). In essence, injured employees used the retained control doctrine to support tort claims against the project owners and other parties that had done nothing more than try to enforce reasonable safety practices during the performance of a contractor's work.



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In practice, project owners and contractors attempted to avoid tort liability by limiting their involvement with each other's safety programs and work performance. In other words, prior to 2004 the law actually discouraged project owners and other project participants from implementing and enforcing coordinated safe work practices.

Under current law, project participants can take an integrated approach to completion of a project and can integrate safety programs. That is, project owners, contractors and subcontractors work closely together to ensure that project specifications and safety standards are met and that all work is completed in a successful and safe manner.

Second, the Alaska Workers' Compensation Act is intended to provide injured workers with reasonable compensation for their work related injuries without regard to fault or the cause of the injury. Some may claim that without the risk of exposure to tort damages, the project owners and other project participants have had little incentive to implement and enforce safe work practices. As previously stated, the new law has allowed for increased safety awareness and coordinated safety programs interconnecting subcontractors and project owners together. The Alaska State Chamber of Commerce has been steadfast advocates of reducing workers' compensation (wc) expenses particularly wc insurance; however, continued improvement on insurance rates mean continued improvement on workplace safety.

The tort system is not the only available means to punish companies that violate safety practices. The Department of Labor, the Oil and Gas Commission and other State agencies have authority to fine companies that violate State safety standards. Those agencies also have the authority to shut down projects that pose a safety hazard to employees. When project owners, their contractors and subcontractors work in an integrated manner, all companies involved in the contracting chain are subject to the fines and other remedies of state agencies. This is a much more efficient, credible and cost effective means of policing job safety.

At this time and in accordance with our legislative position adopted this past fall, we cannot support SB 303.

Best Regards,

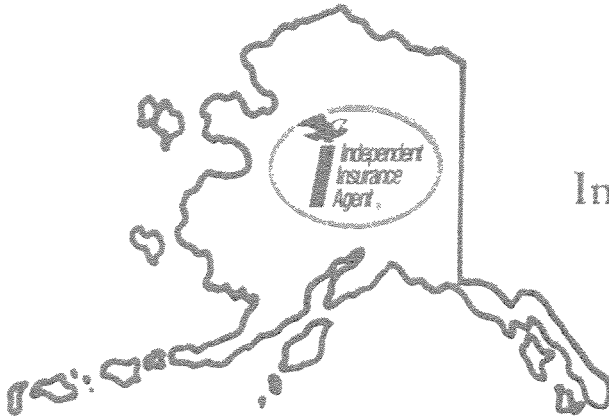


Wayne A. Stevens
President/CEO

**Alaska State Chamber of Commerce
2010 Position**

Support Workers' Compensation Exclusive Liability Statute

The Chamber supports current Alaska law making compensation benefits an injured worker's exclusive remedy for on-the-job injuries. The State Chamber will oppose any legislation introduced to remove the exclusive liability language described above.



Alaska Independent Insurance Agents & Brokers, Inc.

April 8th, 2010

To Whom It May Concern:

Re: SB 303

To Whom It May Concern:

Please be advised that the Alaska Independent Agents and Brokers do not support SB 303 as the supreme court decision on Joseph Schiel Vs: Union Oil (November 20, 2009) upheld the very same opinion that the 2004 Legislative fix moved to correct. That is to say that the ability of an uninsured employee of a subcontractor to sue the general and the owner that had existed was not legitimate and current law serves the purpose it was intended to accomplish.

SB 303 wants to allow the opportunity to file claims against general contractors under third party action. This bill will repeal the exclusive remedy protection for building owner and general contractor.

This is a similar bill that we opposed in 2008 SB 147.

Sincerely yours,



John Grummett

National Director Alaska Independent Agents and Brokers