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Wallace
4/14/16

SENATE CS FOR HOUSE BILL NO. 308(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MILLETT, Muñoz, Foster, Wool, Josephson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to compensation of attorneys in actions against the state; relating to the**
2 **limitation of liability for the inspection, installation, or adjustment of a child safety seat**
3 **or in providing education regarding the installation or adjustment of a child safety seat;**
4 **relating to child safety devices in motor vehicles; and amending Rule 35, Alaska Bar**
5 **Rules."**

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

7 * **Section 1.** AS 09.19 is amended by adding a new section to read:

8 **Sec. 09.19.300. Compensation of attorneys in actions against the state.** In a
9 civil action against the state under this chapter, the attorney for a plaintiff may not
10 enter into a contract for the payment of fees based on a contingency fee in excess of 25
11 percent of the damages awarded to the plaintiff.

12 * **Sec. 2.** AS 09.65 is amended by adding a new section to read:

13 **Sec. 09.65.094. Liability for inspection, installation, or adjustment of a**

1 **child safety seat.** (a) Except as provided in (b) of this section, a person other than a
2 manufacturer of child safety seats or an agent or employee of a manufacturer of child
3 safety seats is not liable for civil damages as a result of an act or omission that occurs
4 in the inspection, installation, or adjustment of a child safety seat or in providing
5 education regarding the installation or adjustment of a child safety seat if

6 (1) the person

7 (A) has successfully completed the National Child Passenger
8 Safety Certification Training program and maintains a current child passenger
9 safety technician or technician instructor certification issued under that
10 program;

11 (B) offers or arranges a nonprofit child safety seat educational
12 program, checkup event, or checking station program for the public with
13 instruction by certified child passenger safety technicians or technician
14 instructors; or

15 (C) owns property where a nonprofit child safety seat
16 educational program, checkup event, or checking station program for the
17 public occurs with instruction by certified child passenger safety technicians or
18 technician instructors; and

19 (2) the services are provided

20 (A) without a fee, other than for the reimbursement of actual
21 expenses;

22 (B) in good faith; and

23 (C) within the scope of training for which the person is
24 currently certified.

25 (b) This section does not apply to a civil action

26 (1) for damages resulting from gross negligence or willful or wanton
27 misconduct; or

28 (2) where the inspection, installation, or adjustment of a child safety
29 seat, or education provided regarding the inspection, installation, or adjustment of a
30 child safety seat, is performed in conjunction with the for-profit sale of a child safety
31 seat.

1 * **Sec. 3.** AS 28.05.095(b) is amended to read:

2 (b) Except as provided in (c) of this section, a driver may not transport a child
3 under the age of 16 in a motor vehicle unless the driver has provided the required
4 safety device and properly secured each child as described in this subsection. A child

5 (1) less than one year of age or a child one year of age or older who
6 weighs less than 20 pounds shall be properly secured in a rear-facing child safety seat
7 that meets or exceeds standards of the United States Department of Transportation and
8 is used in accordance with the manufacturer's instructions;

9 (2) one or more years of age but less than **four** [FIVE] years of age
10 who weighs 20 pounds or more shall be properly secured in a child restraint device
11 that meets or exceeds the standards of the United States Department of Transportation
12 and is used in accordance with the manufacturer's instructions;

13 (3) over four years of age but less than eight years of age who is less
14 than 57 inches in height and weighs 20 or more pounds but less than 65 pounds shall
15 be properly secured in a booster seat that is secured by a seat belt system or by another
16 child passenger restraint system that meets or exceeds the standards of the United
17 States Department of Transportation and is used in accordance with the manufacturer's
18 instructions;

19 (4) over four years of age who exceeds the height or weight
20 requirements in (3) of this subsection shall be properly secured in a seat belt;

21 (5) eight years of age but less than 16 years of age who does not
22 exceed the height and weight requirements in (3) of this subsection shall be properly
23 secured in a child safety device approved for a child of that size by the United States
24 Department of Transportation or in a safety belt, whichever is appropriate for the
25 particular child as determined solely by the driver.

26 *** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **INDIRECT COURT RULE AMENDMENT.** AS 09.19.300, enacted by sec. 1 of this
29 Act, has the effect of changing Rule 35, Alaska Bar Rules, by establishing a rule that governs
30 the amount of fees that an attorney may receive in an action against the state under AS 09.19
31 based on a contingency fee as compensation for services rendered to a client.

1 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **APPLICABILITY.** (a) AS 09.19.300, enacted by sec. 1 of this Act, applies to
4 contracts for legal services in actions against the state entered into on or after the effective
5 date of this Act, between an attorney and a client, that are based on a contingency fee as
6 compensation for services rendered to the client.

7 (b) AS 09.65.094, enacted by sec. 2 of this Act, applies to causes of action that accrue
8 on or after the effective date of this Act.

9 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **CONDITIONAL EFFECT.** AS 09.19.300, enacted by sec. 1 of this Act, takes effect
12 only if sec. 4 of this Act receives the two-thirds majority vote of each house required by art.
13 IV, sec. 15, Constitution of the State of Alaska.