

31-GH1049\M
Marx
4/5/19

CS FOR HOUSE BILL NO. 68(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the division of labor standards and safety; relating to the division of workers' compensation; establishing the division of workers' safety and compensation; and providing for an effective date."

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

* **Section 1.** AS 18.20.410(b) is amended to read:

(b) Immediately after declaring a temporary nurse staffing emergency under (a) of this section, a health care facility shall file with the division of workers' safety and compensation [LABOR STANDARDS AND SAFETY], Department of Labor and Workforce Development, a report that includes a copy of the signed writing required under (a) of this section. A report under this subsection is a public document.

* **Sec. 2.** AS 18.20.410(b), as amended by sec. 1 of this Act, is amended to read:

(b) Immediately after declaring a temporary nurse staffing emergency under (a) of this section, a health care facility shall file with the division of labor standards and safety [WORKERS' SAFETY AND COMPENSATION], Department of Labor

and Workforce Development, a report that includes a copy of the signed writing required under (a) of this section. A report under this subsection is a public document.

* **Sec. 3.** AS 18.20.450(a) is amended to read:

(a) A health care facility shall file with the division of **workers' safety and compensation** [LABOR STANDARDS AND SAFETY], Department of Labor and Workforce Development, a semiannual report on a form provided by the department. The report for the six-month period ending June 30 must be filed before the following August 1, and the report for the six-month period ending December 31 must be filed before the following February 1. The report must include, for each nurse employed by the health care facility or under contract with the health care facility, the number of overtime hours worked and the number of hours the nurse was on call. A health care facility that does not employ a nurse who worked overtime hours or who was on call during the reporting period is not required to describe hours worked as overtime and on-call hours for individual nurses but may instead complete the report by stating on the form that there are no reportable hours.

* **Sec. 4.** AS 18.20.450(a), as amended by sec. 3 of this Act, is amended to read:

(a) A health care facility shall file with the division of **labor standards and safety** [WORKERS' SAFETY AND COMPENSATION], Department of Labor and Workforce Development, a semiannual report on a form provided by the department. The report for the six-month period ending June 30 must be filed before the following August 1, and the report for the six-month period ending December 31 must be filed before the following February 1. The report must include, for each nurse employed by the health care facility or under contract with the health care facility, the number of overtime hours worked and the number of hours the nurse was on call. A health care facility that does not employ a nurse who worked overtime hours or who was on call during the reporting period is not required to describe hours worked as overtime and on-call hours for individual nurses but may instead complete the report by stating on the form that there are no reportable hours.

* **Sec. 5.** AS 18.60.055 is amended to read:

Sec. 18.60.055. Division of workers' safety and compensation [LABOR STANDARDS AND SAFETY]. As established by AS 23.10.075, there is in the

department a division of workers' safety and compensation [LABOR STANDARDS AND SAFETY]. Minimum qualifications shall be established for employees of the department acting as safety inspectors under AS 18.60.010 - 18.60.105. These qualifications must include, as a minimum requirement, at least five years general work experience in the field they are assigned to inspect. Training in safety principles, codes, and standards may be substituted for work experience up to a maximum of three years.

* **Sec. 6.** AS 18.60.055, as amended by sec. 5 of this Act, is amended to read:

Sec. 18.60.055. Division of labor standards and safety [WORKERS' SAFETY AND COMPENSATION]. As established by AS 23.10.075, there is in the department a division of labor standards and safety [WORKERS' SAFETY AND COMPENSATION]. Minimum qualifications shall be established for employees of the department acting as safety inspectors under AS 18.60.010 - 18.60.105. These qualifications must include, as a minimum requirement, at least five years general work experience in the field they are assigned to inspect. Training in safety principles, codes, and standards may be substituted for work experience up to a maximum of three years.

* **Sec. 7.** AS 18.60.058(a) is amended to read:

(a) In the event of an employment accident that is fatal to an employee or that results in an employee's in-patient hospitalization, an employee's loss of an eye, or an employee's amputation, the employer shall report the accident. The report must be made by telephone or in person to the nearest office of the division of workers' safety and compensation [LABOR STANDARDS AND SAFETY] or by telephone to the federal toll-free number provided by the division. The report must relate the name of the establishment, the location of the accident, the time of the accident, a contact person and the telephone number of the contact person, a brief description of the accident, the number of fatalities or injured employees, and the extent of any injuries. The report must be made immediately but in no event later than eight hours after receipt by the employer of information that the accident has occurred. However, if the employer first receives information of a fatality, in-patient hospitalization, loss of an eye, or amputation eight or more hours after the accident but not later than 30 days

1 after the accident, the employer must make the report not later than eight hours after
2 receiving the information. This subsection does not apply to an employer that first
3 receives information of a fatality, in-patient hospitalization, loss of an eye, or
4 amputation more than 30 days after the accident.

5 * **Sec. 8.** AS 18.60.058(a), as amended by sec. 7 of this Act, is amended to read:

6 (a) In the event of an employment accident that is fatal to an employee or that
7 results in an employee's in-patient hospitalization, an employee's loss of an eye, or an
8 employee's amputation, the employer shall report the accident. The report must be
9 made by telephone or in person to the nearest office of the division of **labor**
10 **standards and safety** [WORKERS' SAFETY AND COMPENSATION] or by
11 telephone to the federal toll-free number provided by the division. The report must
12 relate the name of the establishment, the location of the accident, the time of the
13 accident, a contact person and the telephone number of the contact person, a brief
14 description of the accident, the number of fatalities or injured employees, and the
15 extent of any injuries. The report must be made immediately but in no event later than
16 eight hours after receipt by the employer of information that the accident has occurred.
17 However, if the employer first receives information of a fatality, in-patient
18 hospitalization, loss of an eye, or amputation eight or more hours after the accident but
19 not later than 30 days after the accident, the employer must make the report not later
20 than eight hours after receiving the information. This subsection does not apply to an
21 employer that first receives information of a fatality, in-patient hospitalization, loss of
22 an eye, or amputation more than 30 days after the accident.

23 * **Sec. 9.** AS 18.60.235(a) is amended to read:

24 (a) In addition to the deputy inspectors employed under AS 18.60.230 and the
25 special inspectors commissioned under AS 18.60.240, the commissioner of labor and
26 workforce development may appoint an employee of the Department of Labor and
27 Workforce Development as an approved inspector if the employee has completed
28 training by the chief inspector and has passed an examination that has been approved
29 by the director of the division of **workers' safety and compensation** [LABOR
30 STANDARDS AND SAFETY] to perform inspections under AS 18.60.180 -
31 18.60.395 of cast iron boilers and domestic hot water heaters. An employee does not

1 have to pass the examination described in AS 18.60.290 in order to be appointed an
2 approved inspector under this subsection.

3 * **Sec. 10.** AS 18.60.235(a), as amended by sec. 9 of this Act, is amended to read:

4 (a) In addition to the deputy inspectors employed under AS 18.60.230 and the
5 special inspectors commissioned under AS 18.60.240, the commissioner of labor and
6 workforce development may appoint an employee of the Department of Labor and
7 Workforce Development as an approved inspector if the employee has completed
8 training by the chief inspector and has passed an examination that has been approved
9 by the director of the division of **labor standards and safety** [WORKERS' SAFETY
10 AND COMPENSATION] to perform inspections under AS 18.60.180 - 18.60.395 of
11 cast iron boilers and domestic hot water heaters. An employee does not have to pass
12 the examination described in AS 18.60.290 in order to be appointed an approved
13 inspector under this subsection.

14 * **Sec. 11.** AS 23.05.067(a) is amended to read:

15 (a) Each insurer providing workers' compensation insurance and each
16 employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall
17 pay an annual service fee to the department for the administrative expenses of the state
18 for workers' safety programs under AS 18.60 and the workers' compensation program
19 under AS 23.30 as follows:

20 (1) for each employer,

21 (A) except as provided in (b) of this section, the service fee
22 shall be paid each year to the department at the time that the annual report is
23 required to be filed under AS 23.30.155(m) or (n); and

24 (B) the service fee is 2.9 percent of all payments reported to the
25 division of workers' **safety and** compensation in the department under
26 AS 23.30.155(m) or (n), except second injury fund payments; and

27 (2) for each insurer, the director of the division of insurance shall,
28 under (e) of this section, deposit from funds received from the insurer under
29 AS 21.09.210 a service fee of 2.5 percent of the direct premium income for workers'
30 compensation insurance received by the insurer during the year ending on the
31 preceding December 31, subject to all the deductions specified in AS 21.09.210(b).

1 * **Sec. 12.** AS 23.05.067(a), as amended by sec. 11 of this Act, is amended to read:

2 (a) Each insurer providing workers' compensation insurance and each
3 employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall
4 pay an annual service fee to the department for the administrative expenses of the state
5 for workers' safety programs under AS 18.60 and the workers' compensation program
6 under AS 23.30 as follows:

7 (1) for each employer,

8 (A) except as provided in (b) of this section, the service fee
9 shall be paid each year to the department at the time that the annual report is
10 required to be filed under AS 23.30.155(m) or (n); and

11 (B) the service fee is 2.9 percent of all payments reported to the
12 division of workers' [SAFETY AND] compensation in the department under
13 AS 23.30.155(m) or (n), except second injury fund payments; and

14 (2) for each insurer, the director of the division of insurance shall,
15 under (e) of this section, deposit from funds received from the insurer under
16 AS 21.09.210 a service fee of 2.5 percent of the direct premium income for workers'
17 compensation insurance received by the insurer during the year ending on the
18 preceding December 31, subject to all the deductions specified in AS 21.09.210(b).

19 * **Sec. 13.** AS 23.10.075 is repealed and reenacted to read:

20 **Sec. 23.10.075. Division of workers' safety and compensation.** The division
21 of workers' safety and compensation is established in the department. The
22 commissioner shall appoint the director of the division. The director shall administer
23 AS 18.60.010 - 18.60.105, AS 23.10.050 - 23.10.150, and AS 23.30.001 - 23.30.400.

24 * **Sec. 14.** AS 23.10.075 is repealed and reenacted to read:

25 **Sec. 23.10.075. Labor standards and safety division.** There is established in
26 the department the division of labor standards and safety. The director of the division
27 is responsible to the commissioner. The director shall administer AS 18.60.010 -
28 18.60.105 and AS 23.10.050 - 23.10.150.

29 * **Sec. 15.** AS 23.10.080 is amended to read:

30 **Sec. 23.10.080. Powers and duties of division.** The director, or an authorized
31 representative of the director, shall

(1) investigate and ascertain the wages and related conditions and standards of employment of any employee in the state;

(2) enter the place of business or employment of an employer at reasonable times for the purpose of inspecting payroll records that relate to the question of wages paid or hours worked;

(3) require and subpoena from an employer a statement in writing, when the director or the representative considers it necessary, of hours worked by and the wages paid to a person in the employ of the employer, and the commissioner may require the employer to make the statement under oath;

(4) question an employee in a place of employment during work hours with respect to the wages paid and the hours worked by the employees;

(5) compel the attendance of witnesses and the production of books, papers, and documents by subpoena when necessary for the purpose of a hearing or investigation provided for in AS 23.10.050 - 23.10.150;

(6) facilitate the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers who are required to provide workers' compensation.

* **Sec. 16.** AS 23.30 is amended by adding a new section to read:

Sec. 23.30.003. Division of workers' compensation; director. The division of workers' compensation is established in the department. The commissioner shall appoint the director of the division of workers' compensation.

* **Sec. 17.** AS 23.30.025(a) is amended to read:

(a) An insurer may not enter into or issue a policy of insurance under this chapter until its policy form has been submitted to and approved by the director of the division of insurance. The director of the division of insurance may not approve the policy form of an insurance company until the company files with it the certificate of the director of the division of insurance showing that the company is authorized to transact the business of workers' compensation insurance in the state. The filing of a policy form by an insurance company with the division of workers' **safety and** compensation for approval constitutes, on the part of the company, a conclusive and unqualified acceptance of the provisions of this chapter, and an agreement by it to be

bound by them.

* **Sec. 18.** AS 23.30.025(a), as amended by sec. 17 of this Act, is amended to read:

(a) An insurer may not enter into or issue a policy of insurance under this chapter until its policy form has been submitted to and approved by the director of the division of insurance. The director of the division of insurance may not approve the policy form of an insurance company until the company files with it the certificate of the director of the division of insurance showing that the company is authorized to transact the business of workers' compensation insurance in the state. The filing of a policy form by an insurance company with the division of workers' [SAFETY AND] compensation for approval constitutes, on the part of the company, a conclusive and unqualified acceptance of the provisions of this chapter, and an agreement by it to be bound by them.

* **Sec. 19.** AS 23.30.280(e) is amended to read:

(e) Except as provided in (f) of this section, a person is not liable for civil damages for filing a report concerning a suspected, anticipated, or completed fraudulent act or a false or misleading statement or representation with, or for furnishing other information, whether written or oral, concerning a suspected, anticipated, or completed fraudulent act or false or misleading statements or representation to

(1) law enforcement officials or their agents and employees;

(2) the division of workers' safety and compensation, the division of insurance in the Department of Commerce, Community, and Economic Development, or an agency in another state that regulates insurance or workers' compensation;

(3) an insurer or adjuster or its agents, employees, or designees, or the risk manager of a self-insured employer under this chapter.

* **Sec. 20.** AS 23.30.280(e), as amended by sec. 19 of this Act, is amended to read:

(e) Except as provided in (f) of this section, a person is not liable for civil damages for filing a report concerning a suspected, anticipated, or completed fraudulent act or a false or misleading statement or representation with, or for furnishing other information, whether written or oral, concerning a suspected, anticipated, or completed fraudulent act or false or misleading statements or

representation to

(1) law enforcement officials or their agents and employees;

(2) the division of workers' [SAFETY AND] compensation, the division of insurance in the Department of Commerce, Community, and Economic Development, or an agency in another state that regulates insurance or workers' compensation;

(3) an insurer or adjuster or its agents, employees, or designees, or the risk manager of a self-insured employer under this chapter.

* **Sec. 21.** AS 23.30.395(15) is amended to read:

(15) "director" means the director of the division of workers' safety and compensation in the department;

* **Sec. 22.** AS 23.30.395(15), as amended by sec. 21 of this Act, is amended to read:

(15) "director" means the director of the division of workers' [SAFETY AND] compensation in the department;

* **Sec. 23.** AS 23.30.395(17) is amended to read:

(17) "division" means the division of workers' safety and compensation in the department;

* **Sec. 24.** AS 23.30.395(17), as amended by sec. 23 of this Act, is amended to read:

(17) "division" means the division of workers' [SAFETY AND] compensation in the department;

* **Sec. 25.** AS 39.25.120(c)(14) is amended to read:

(14) the rehabilitation administrator of the division of workers' safety and compensation;

* **Sec. 26.** AS 39.25.120(c)(14), as amended by sec. 25 of this Act, is amended to read:

(14) the rehabilitation administrator of the division of workers' [SAFETY AND] compensation;

* **Sec. 27.** AS 39.25.158(b) is amended to read:

(b) After an employee requests to return to work, the reemployment benefits administrator of the division of workers' safety and compensation or the director of vocational rehabilitation in the Department of Labor and Workforce Development shall review the request and certify that the employee is able to return to work under

(c), (d), (e), or (f) of this section, or defer certification until the employee completes retraining under (f) of this section.

* **Sec. 28.** AS 39.25.158(b), as amended by sec. 27 of this Act, is amended to read:

(b) After an employee requests to return to work, the reemployment benefits administrator of the division of workers' [SAFETY AND] compensation or the director of vocational rehabilitation in the Department of Labor and Workforce Development shall review the request and certify that the employee is able to return to work under (c), (d), (e), or (f) of this section, or defer certification until the employee completes retraining under (f) of this section.

* **Sec. 29.** AS 23.30.002 is repealed.

* **Sec. 30.** AS 23.10.080(6) is repealed.

* **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to read:

MERGER OF DIVISIONS IN THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT: TRANSITION. (a) Notwithstanding the temporary merger under this Act of the division of labor standards and safety with the division of workers' compensation in the Department of Labor and Workforce Development, all litigation, administrative proceedings, investigations, orders, certificates, regulations, contractual obligations, rights, and liabilities continue in effect.

(b) Records, equipment, allocations, and other property of each affected division may be transferred as necessary to implement the changes made by this Act.

* **Sec. 32.** Sections 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, and 30 of this Act take effect July 1, 2022.

* **Sec. 33.** Except as provided in sec. 32 of this Act, this Act takes effect July 1, 2019.