

SENATE CS FOR CS FOR HOUSE BILL NO. 457(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/29/96

Referred: Rules

Sponsor(s): REPRESENTATIVE JAMES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the unlicensed practice of certain occupations for which
2 licenses are required."

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

4 * Section 1. AS 08.01 is amended by adding a new section to read:

5 Sec. 08.01.089. CIVIL PENALTY FOR UNLICENSED PRACTICE. (a) In
6 addition to any other provision of law, if a person practices or offers to practice an
7 occupation in this state that is regulated under this title by a board listed in
8 AS 08.01.010 or AS 08.03.010(c) or by the department without being licensed in
9 accordance with the provisions of this title, the department may enter an order
10 imposing a civil penalty.

11 (b) A civil penalty imposed under this section may not exceed \$5,000 for each
12 offense. The department shall set the amount of the penalty after taking into account
13 appropriate factors, including the seriousness of the violation, the economic benefit
14 resulting from the violation, the history of violations, and other matters the department

1 considers appropriate.

2 (c) Before issuing an order under this section, the department shall provide the
3 person written notice and the opportunity to request, within 30 days of issuance of
4 notice by the department, a hearing on the record.

5 (d) In connection with proceedings under (a) - (c) of this section, the
6 department may issue subpoenas to compel the attendance and testimony of witnesses
7 and the disclosure of evidence, and may request the attorney general to bring an action
8 to enforce a subpoena.

9 (e) A person aggrieved by the imposing of a civil penalty under this section
10 may file an appeal with the superior court for judicial review of the penalty under
11 AS 44.62.560.

12 (f) If a person fails to pay a civil penalty within 30 days after entry of an order
13 under (a) of this section, or if the order is stayed pending an appeal, within 10 days
14 after the court enters a final judgment in favor of the department of an order appealed
15 under (e) of this section, the department shall notify the attorney general. The attorney
16 general may commence a civil action to recover the amount of the penalty.

17 (g) An action to enforce an order under this section may be combined with an
18 action for an injunction under AS 08.01.087.

19 (h) The department may not impose a fine under this section for an act for
20 which a fine has already been imposed by a board listed in AS 08.01.010 or
21 AS 08.03.010(c).

22 (i) Notwithstanding other provisions of this section and the definition of
23 "license" in AS 08.01.110, the department may not impose a civil penalty under this
24 section based solely on a person's failure to have a business license required under
25 AS 43.70.

26 * **Sec. 2. APPLICABILITY.** This Act applies to violations of AS 08 that occur on or after
27 the effective date of this Act.