

**HOUSE BILL NO. 81**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE ANDERSON**

**Introduced: 1/19/05**

**Referred: Labor and Commerce, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing an administrative fine and procedure for construction contractors**  
2 **in certain circumstances; increasing the amount of a civil penalty for persons acting in**  
3 **the capacity of contractors or home inspectors; modifying the elements of a crime**  
4 **involving contractor registration and residential contractors; and exempting the**  
5 **administrative hearings for imposing an administrative fine on construction contractors**  
6 **from the hearings conducted by the office of administrative hearings in the Department**  
7 **of Administration."**

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

9 \* **Section 1.** AS 08.18.117 is amended to read:

10 **Sec. 08.18.117. Issuance of citations. Except as provided in AS 08.18.125,**  
11 **either [EITHER] the Department of Commerce, Community, and Economic**  
12 **Development or the Department of Labor and Workforce Development may issue a**  
13 **citation for a violation if there is probable cause to believe a person has violated this**

1 chapter with respect to contractor activities. The Department of Commerce,  
 2 Community, and Economic Development may issue a citation for a violation if there is  
 3 probable cause to believe a person has violated this chapter with respect to home  
 4 inspection activities. Each day a violation continues after a citation for the violation  
 5 has been issued constitutes a separate violation.

6 \* **Sec. 2.** AS 08.18 is amended by adding a new section to read:

7 **Sec. 08.18.125. Administrative fine and procedure.** (a) Notwithstanding  
 8 any other remedy available under this chapter and except as provided in (e) of this  
 9 section, the department may impose an administrative fine of not more than \$1,000 for  
 10 the first violation and not more than \$1,500 for a second or subsequent violation of  
 11 either AS 08.18.011 or 08.18.025.

12 (b) The department shall issue a written notice of an administrative fine  
 13 imposed under (a) of this section, together with a statement of the reason for the fine, a  
 14 copy of the applicable procedures, and notice of an opportunity to request a hearing,  
 15 including the contact information for making the request, within 10 days after the date  
 16 of the notice of the fine.

17 (c) If a person who is issued a notice of an administrative fine under (b) of this  
 18 section makes a timely request for a hearing either in writing or by telephone, the  
 19 department shall schedule a hearing before a hearing officer not earlier than 10 days  
 20 after receiving the request for a hearing.

21 (d) A decision of a hearing officer under this section is a final administrative  
 22 decision subject to review by a superior court under AS 44.62 (Administrative  
 23 Procedure Act).

24 (e) The department may not impose an administrative fine on a person who is  
 25 acting as a contractor or home inspector in an area with a population of 1,000 or less  
 26 that is not connected by road or rail to Anchorage or Fairbanks.

27 \* **Sec. 3.** AS 08.18.131 is amended to read:

28 **Sec. 08.18.131. Injunction; civil penalty.** In an action instituted in the  
 29 superior court by the Department of Commerce, Community, and Economic  
 30 Development or the Department of Labor and Workforce Development, the court may  
 31 enjoin a person from acting in the capacity of a contractor in violation of this chapter.

1 In an action instituted in the superior court by the Department of Commerce,  
 2 Community, and Economic Development, the court may enjoin a person from acting  
 3 in the capacity of a home inspector in violation of this chapter. In addition to other  
 4 relief, the court may impose a civil penalty of not more than \$1,000 [\$250] for each  
 5 violation. Each day that an unlawful act continues constitutes a separate violation.

6 \* **Sec. 4.** AS 08.18.141 is repealed and reenacted to read:

7 **Sec. 08.18.141. Violations.** (a) A contractor or a person acting in the  
 8 capacity of a contractor is guilty of a class B misdemeanor if the person

9 (1) knowingly violates AS 08.18.011 or 08.18.025; and

10 (2) has been previously

11 (A) convicted of violating AS 08.18.011 or 08.18.025;

12 (B) found guilty of a violation under AS 08.18.117 if the  
 13 violation involved AS 08.18.011 or 08.18.025; or

14 (C) fined under AS 08.18.125.

15 (b) A contractor or a person acting in the capacity of a contractor who violates  
 16 a provision of this chapter, other than a violation under (a) of this section, is guilty of a  
 17 violation punishable under AS 12.

18 (c) Criminal prosecution for a violation of this chapter does not preclude the  
 19 Department of Commerce, Community, and Economic Development or the  
 20 Department of Labor and Workforce Development from seeking available civil or  
 21 administrative remedies.

22 \* **Sec. 5.** AS 44.64.030(a)(6) is amended to read:

23 (6) AS 08 (occupational licensing), other than AS 08.08,  
 24 AS 08.18.125, and AS 08.62.046;

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

27 APPLICABILITY. AS 08.18.125, 08.18.131, and 08.18.141, as added or amended by  
 28 secs. 2 - 4 of this Act, apply to a violation occurring on or after the effective date of this Act.  
 29 However, for the purposes of AS 08.18.141, a previous conviction or fine may have occurred  
 30 before, on, or after the effective date of this Act.

31 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REVISOR'S INSTRUCTION. The amendment to AS 44.64.030(a)(6) by sec. 5 of this

3 Act is to be reconciled with secs. 82 and 96, ch. 163, SLA 2004, so that both are given effect.