



AMENDMENT #1

OFFERED IN THE HOUSE  
TO: CSHB 38(FIN)

BY REPRESENTATIVE WILSON

1 Page 1, line 1, following "Act": *(title change)*  
2 Insert "relating to the exclusiveness of liability of an employer in the case of  
3 death;"

5 Page 1, following line 10:

6 Insert a new bill section to read:

7 **\*\* Sec. 2.** AS 23.30.055 is repealed and reenacted to read:

8 **Sec. 23.30.055. Exclusiveness of liability.** (a) The liability of an employer  
9 prescribed in AS 23.30.045 is exclusive and in place of all other liability of the  
10 employer and any fellow employee to the employee, the employee's legal  
11 representative, husband or wife, parents, dependents, next of kin, and anyone  
12 otherwise entitled to recover damages from the employer or fellow employee at law or  
13 in admiralty on account of the injury or death. The liability of the employer is  
14 exclusive even if the employee's claim is barred under AS 23.30.022.

15 (b) Notwithstanding (a) of this section, if death results from the injury, the  
16 employee's personal representative may elect to claim compensation under this chapter  
17 or to maintain an action against the employer at law or in admiralty for damages on  
18 account of the death, if

19 (1) an employer fails to secure payment of compensation as required  
20 by this chapter; or

21 (2) the death was caused by gross negligence of the employer; it is  
22 presumed that the employer acted with gross negligence if the employer violated a  
23 federal, state, or local law or regulation.

1           (c) In an action under (b) of this section, the defendant may not plead as a  
2 defense that the death was caused by the negligence of a fellow servant, that the  
3 employee assumed the risk of the employment, or that the death was due to the  
4 contributory negligence of the employee.

5           (d) In this section, "employer" includes, in addition to the meaning given in  
6 AS 23.30.395, a person who, under AS 23.30.045(a), is liable or potentially liable for  
7 securing payment of compensation."  
8

9    Renumber the following bill sections accordingly.