

Original sponsor: Rules Committee by  
request of the Governor

Offered: 3/20/73  
Referred: Rules

1 IN THE SENATE

BY THE LABOR AND MANAGEMENT COMMITTEE

2 CS FOR SENATE BILL NO. 46 *AM*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the establishment and enforcement  
7 of occupational safety and health standards."

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

9 \* Section 1. AS 18.60.010 is repealed and re-enacted to read:

10 ARTICLE 1. PREVENTION OF ACCIDENT AND HEALTH HAZARDS.

11 Sec. 18.60.010. LEGISLATIVE INTENT. (a) The legislature finds  
12 that personal injuries and illnesses arising out of work situations  
13 impose a substantial burden upon, and are a hindrance to, the people  
14 of the state in terms of loss of production, wage loss, medical expenses  
15 and disability compensation payments.

16 (b) For these reasons it is found and declared necessary to under-  
17 take a program to reduce the incidence of work-related accidents and  
18 health hazards in the state.

19 \* Sec. 2. AS 18.60.020 is amended to read:

20 Sec. 18.60.020. REGULATIONS. (a) The Department of Labor  
21 shall [MAY] issue the orders [, RULES] and regulations necessary to  
22 carry out the purposes of secs. 10 - 100 of this chapter.

23 (b) When the commissioner promulgates any standard, makes any  
24 rule or order, grants any exemption or extension of time, or compromises,  
25 mitigates, or settles any penalty assessed under this chapter, he shall  
26 include a statement of the reasons for the action, forward a copy to  
27 the OSHA Review Board and cause a copy to be published in newspapers  
28 in the state so as to receive statewide coverage.

29 \* Sec. 3. AS 18.60.030 is amended by adding new paragraphs to read:

1 (6) establish and enforce occupational safety and health  
2 standards that prescribe requirements for safe and healthful working  
3 conditions for all employment, including state and local government  
4 employment, and the requirements are to be at least as effective as  
5 those requirements promulgated by the United States Secretary of Labor  
6 under sec. 6 of Public Law 91-596;

7 (7) require an employer to maintain records and submit  
8 reports to the department which records and reports are necessary  
9 or appropriate for the enforcement of secs. 10 - 100 of this chapter  
10 and to maintain records and submit reports to the United States Secre-  
11 tary of Labor in the same manner and to the same extent as set out  
12 in federal law and regulations;

13 (8) require an employer to maintain records and submit  
14 reports appropriate for use in developing information regarding the  
15 causes and prevention of occupational accidents and illnesses;

16 (9) require an employer to make periodic inspections when  
17 necessary to carry out the record and reporting requirements of (7)  
18 and (8) of this section;

19 (10) participate in occupational safety and health programs  
20 if it finds they are necessary to meet the occupational health and  
21 safety needs of the state;

22 (11) execute on behalf of the state agreements or contracts  
23 necessary or desirable to enable the state to participate in occupa-  
24 tional safety and health programs, and to receive and expend funds  
25 made available for programs of the state.

26 \* Sec. 4. AS 18.60 is amended by adding new sections to read:

27 Sec. 18.60.055. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH.

28 There is established in the department a division of occupational safety  
and health to be administered by a director responsible to the

1 commissioner. Minimum qualifications shall be established for employees  
2 of the department acting as safety inspectors. Such qualifications  
3 shall include, as a minimum requirement, at least five years general  
4 work experience in the field they are assigned to inspect.

5 Sec. 18.60.057. OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD. (a)  
6 There is created the Occupational Safety and Health Review Board within  
7 the Department of Labor, referred to in this chapter as the OSHA Review  
8 Board. The board shall consist of three members appointed by the gover-  
9 nor and confirmed by the legislature in joint session. One member of  
10 the board shall represent labor, one member shall represent industry,  
11 and the other shall represent the public. Each appointee shall have  
12 adequate experience in the area of his appointment. No member of the  
13 board may be an employee of the state in another capacity nor may he be  
14 a member or officer of another board or commission for which compensa-  
15 tion other than per diem and travel expenses are paid.

16 (b) The terms of members of the board shall be four years except  
17 that (1) the members of the board first taking office shall serve, as  
18 designated by the governor at the time of appointment, one for a term  
19 of one year, one for a term of two years, and one for a term of four  
20 years, and (2) a vacancy caused by the death, resignation, or removal  
21 of a member before the expiration of the term for which he was appointed  
22 shall be filled only for the remainder of the unexpired term. A member  
23 of the board may be removed by the governor for inefficiency, neglect  
24 of duty or malfeasance in office.

25 (c) The governor shall designate one member of the board as chair-  
26 man. This member shall serve as chairman for a term of one year, but  
27 may be appointed for successive terms.

28 (d) Members of the board are entitled to compensation in the  
29 amount of \$50 a day for each day or portion of each day spent in actual

1 meeting or on authorized official business incident to their duties  
2 and, in addition, they are entitled to all other transportation and  
3 per diem as provided by law for members of other state boards and  
4 commissions.

5 (e) The board may employ persons, subject to legislative appropri-  
6 ation, as it considers necessary for the purpose of performing its  
7 duties under this chapter.

8 Sec. 18.60.059. LEGAL COUNSEL. (a) The attorney general is  
9 legal counsel for the OSHA Review Board. He shall advise the board on  
10 legal matters arising in the discharge of its duties and represent the  
11 board in actions to which it is a party. If, in the opinion of the  
12 board, the public interest is not adequately represented by counsel  
13 in a proceeding, the attorney general, upon request of the board, shall  
14 represent the public interest.

15 (b) Subject to the approval of the attorney general, the board  
16 may employ temporary legal counsel from time to time in matters in which  
17 the board is involved.

18 \* Sec. 5. AS 18.60.075(a) is repealed and re-enacted to read:

19 (a) An employer shall do everything necessary to protect the life,  
20 health and safety of employees including:

21 (1) complying with all occupational safety and health  
22 standards and regulations promulgated by the department;

23 (2) furnishing and prescribing the use of suitable protective  
24 equipment, safety devices and safeguards as are prescribed for the  
25 work and work place; and

26 (3) adopting and prescribing control or technological proce-  
27 dures, and monitoring and measuring employee exposure in connection with  
28 hazards, as may be necessary for the protection of employees.

29 \* Sec. 6. AS 18.60.075(b) is repealed and re-enacted to read:

1 (b) An employee shall comply with occupational safety and health  
2 standards and all rules and regulations issued under secs. 10 - 100 of  
3 this chapter that are applicable to his own actions and conduct.

4 \* Sec. 7. AS 18.60 is amended by adding new sections to read:

5 Sec. 18.60.077. VARIANCE OF A STANDARD. (a) An employer who is  
6 affected by secs. 10 - 100 of this chapter may apply to the commissioner  
7 for a variance from a provision of the safety and health standards  
8 promulgated by the department. Employees who are affected by an appli-  
9 cation for variance shall be given notice of the application for vari-  
10 ance and an opportunity to participate in the hearing. The commissioner  
11 shall issue the variance if he determines on the basis of the hearing  
12 record, after opportunity for an inspection where appropriate, that the  
13 proponent of the variance has demonstrated by a preponderance of the  
14 evidence that the conditions, practices, means, methods, operations, or  
15 processes used or proposed to be used by an employer will provide em-  
16 ployment and places of employment to his employees which are as safe  
17 and as healthful as those which would prevail if he complied with the  
18 provisions of the safety and health standards promulgated by the depart-  
19 ment. The variance shall prescribe the conditions the employer must  
20 maintain and the practices, means, methods, operations, and processes  
21 which he must adopt and utilize to the extent they differ from the  
22 standard in question. The variance may be modified or revoked upon  
23 application by an employer, by employees, or by motion of the commis-  
24 sioner, in the manner prescribed for its issuance under this subsection  
25 at any time after six months from its issuance.

26 (b) When the commissioner grants a variance, he shall include  
27 in this grant a statement of the reasons for the action, and the state-  
28 ment shall be published in a newspaper of statewide circulation and in  
29 a newspaper of local circulation in the area where the variance will be

1 implemented. A copy of the statement shall be sent to the OSHA Review  
2 Board.

3 Sec. 18.60.081. TEMPORARY VARIANCE. (a) An employer who is  
4 affected by secs. 10 - 100 of this chapter may apply to the commis-  
5 sioner for a temporary variance from a provision of the safety and  
6 health standards promulgated by the department. A temporary variance  
7 shall be issued only if the employer files an application fulfilling  
8 the requirements of (b) of this section and the employer establishes

9 (1) he is unable to comply with a standard by its effective  
10 date because of unavailability of the professional or technical person-  
11 nel or of the materials and equipment needed to come into compliance  
12 or because necessary construction or alteration of facilities cannot  
13 be completed by the effective date;

14 (2) he is taking all available steps to safeguard his  
15 employees against the hazards covered by the standard;

16 (3) he has an effective program for coming into compliance  
17 with the standard as quickly as practicable.

18 (b) An application for a temporary variance shall contain

19 (1) a specification of the standard from which the employer  
20 seeks a temporary variance;

21 (2) a representation by the employer, supported by represen-  
22 tations from qualified persons having firsthand knowledge of the facts  
23 represented, that he is unable to comply and a detailed statement of  
24 the reasons for this inability;

25 (3) a statement of the steps he has taken and will take,  
26 including specific dates, to protect employees against the hazard  
27 covered by the standard;

28 (4) a statement of when he expects to be able to comply with  
29 the standard and what steps he has taken and what steps he will take,

1 including specific dates, to come into compliance;

2 (5) a certification that he has informed his employees of  
3 the application for temporary variance and of their right to request  
4 a hearing by giving a copy of the application and a written statement  
5 of the right to a hearing to the employees' authorized representative,  
6 by posting a statement giving a summary of the application and stating  
7 the employees' right to a hearing and specifying where a copy of the  
8 application and notice of right to a hearing may be examined at the  
9 place or places where notices to employees are normally posted, and by  
10 other appropriate means.

11 (c) A temporary variance issued under this section shall prescribe  
12 the practices, means, methods, operations and processes which the  
13 employer shall adopt and use while the variance is in effect and state  
14 in detail the employer's program for coming into compliance with the  
15 standard. A temporary variance may be granted only after notice to  
16 affected employees and an opportunity for hearing. However, the commis-  
17 sioner may issue one interim order to be effective until a decision is  
18 made on the basis of a hearing. A temporary variance may not be in  
19 effect for longer than the period needed by the employer to achieve  
20 compliance with the standard or one year, whichever is shorter, except  
21 that a temporary variance may be renewed not more than twice if the  
22 requirements of (a) and (b) of this section are met and the application  
23 for renewal is filed at least 90 days before the expiration date of  
24 the variance. No interim renewal of an order may remain in effect for  
25 longer than 180 days.

26 Sec. 18.60.083. RIGHT OF ENTRY AND INSPECTION. (a) A represen-  
27 tative of the department, upon presenting appropriate credentials to  
28 the owner, operator, or agent in charge, is authorized to

29 (1) enter without delay and at reasonable times a factory,

1 plant, establishment, construction site, or other area, work place  
2 or environment where work is performed by an employee of an employer;  
3 and

4 (2) inspect and investigate during regular working hours and  
5 at other reasonable times, and with reasonable limits and in a reason-  
6 able manner, a place of employment and all pertinent conditions,  
7 structures, machines, devices, equipment and materials, and to question  
8 privately an employer, owner, operator, agent or employee.

9 (b) In making inspections and investigations under (a) of this  
10 section the department may issue subpoenas compelling the attendance  
11 of witnesses and the production of papers and records. Witnesses shall  
12 be paid the same fees and mileage that are paid witnesses in the  
13 courts of the state. If a person fails to grant a right of entry and  
14 inspection, the department may seek an order from the superior court  
15 compelling the person to submit to entry and inspection. If a person  
16 fails to comply with a subpoena or a witness refuses to testify to a  
17 matter regarding which he may be lawfully interrogated, a superior  
18 court may compel obedience by proceedings for contempt as in the case  
19 of disobedience of the requirements of a subpoena issued from the  
20 court or a refusal to testify before it.

21 Sec. 18.60.085. PROHIBITION OF UNAUTHORIZED NOTICE OF INSPECTION.  
22 No unauthorized notice of a department safety or health inspection may  
23 be given. A person who gives unauthorized notice of a safety or health  
24 inspection, upon conviction, is punishable by a fine of not more than  
25 \$1,000, or by imprisonment for not more than 180 days, or by both.

26 Sec. 18.60.087. EMPLOYER AND EMPLOYEE PARTICIPATION. A repre-  
27 sentative of the employer and a representative authorized by the  
28 employees shall be given an opportunity to accompany the representative  
29 of the department during the physical inspection of a work place for

1 the purpose of aiding the inspection. If the authorized representative  
2 is an employee, time spent aiding the inspection shall be considered  
3 as time worked and he shall be compensated accordingly. When there  
4 is no authorized employee representative, there shall be consultation  
5 with a reasonable number of employees concerning matters of health and  
6 safety in the work place.

7 Sec. 18.60.088. EMPLOYEE REQUESTS FOR SPECIAL INSPECTION. (a)  
8 An employee or a representative of employees who believes that a  
9 violation of a safety or health standard exists that threatens physical  
10 harm or that an imminent danger exists, may request an inspection by  
11 giving notice of the violation or danger to the department. The  
12 notice shall be in writing and set out with reasonable particularity  
13 the grounds for the notice and be signed by the employee or the repre-  
14 sentative of the employees. If, upon receipt of the notice, the  
15 department determines that there are reasonable grounds to believe that  
16 a violation or danger exists, the department shall make a special  
17 inspection as soon as practicable. If the department determines there  
18 are no reasonable grounds to believe that a violation exists, the  
19 department shall notify in writing the employee or the representative  
20 of the employees of that determination.

21 (b) If the department makes a special inspection, or an inspec-  
22 tion under sec. 83 of this chapter, a copy of an employee notice shall  
23 be provided the employer no later than at the time of the inspection.  
24 Upon request of the person giving the notice, his name and the name  
25 of employees referred to in the notice may not appear in the copy  
26 provided the employer or in any record available to the employer.

27 (c) The department shall furnish the notifying person a written  
28 explanation of why a citation was not issued after a special inspection.

29 (d) The department shall, by regulation, establish a review

1 procedure for a failure to issue a citation after a special inspection  
2 and shall provide the employees requesting a review a written statement  
3 of the final disposition of the case.

4 Sec. 18.60.089. PROHIBITION AGAINST RETRIBUTION. (a) No person  
5 may discharge or discriminate against an employee because the employee  
6 has filed a complaint or instituted or caused to be instituted a pro-  
7 ceeding related to the enforcement of occupational safety and health  
8 standards, or has testified or is expected to testify in a proceeding  
9 relating to occupational safety and health or because an employee has  
10 exercised on behalf of himself or others a right afforded under secs.  
11 10 - 100 of this chapter.

12 (b) An employee who believes he has been discharged or discrimi-  
13 nated against by a person in violation of this section may, within 30  
14 days after the violation occurs, file a complaint with the commissioner  
15 alleging the discrimination. Upon receipt of the complaint, the com-  
16 missioner shall investigate the matter as he considers appropriate. If,  
17 upon investigation, the commissioner determines that this section has  
18 been violated, the commissioner shall request the attorney general to  
19 bring an action in the superior court against the violator. The  
20 superior court has jurisdiction to restrain violations of (a) of this  
21 section and to order all appropriate relief including rehiring or  
22 reinstatement of the employee to his former position with back pay.

23 (c) Within 90 days of the receipt of a complaint filed under  
24 this section, the commissioner shall notify the complainant of his  
25 determination under (b) of this section.

26 Sec. 18.60.091. CITATIONS. (a) If, upon inspection or investi-  
27 gation, the department believes that an employer has violated a provi-  
28 sion of secs. 10 - 100 of this chapter that is applicable to the  
29 employer, the department shall with reasonable promptness issue a

1 citation to the employer. Each citation shall be in writing and shall  
2 describe with particularity the nature of the violation, including  
3 reference to the provisions of the chapter or any order, rule or regula-  
4 tion alleged to have been violated, and shall fix a reasonable time  
5 for abatement of the violation. The department may prescribe procedures  
6 for the issuance of a notice instead of a citation with respect to minor  
7 violations which have no direct or immediate relationship to safety  
8 or health.

9 (b) Upon receipt by the employer, each citation issued under  
10 this section, or a copy of the citation, shall be immediately and  
11 prominently posted, at or near each place the violation referred to  
12 in the citation occurred.

13 (c) No citation may be issued for a particular violation under  
14 this section after the expiration of 180 days following the discovery  
15 of the violation by the department or correction of a violation.

16 Sec. 18.60.093. ENFORCEMENT PROCEDURES. (a) If, after an inspec-  
17 tion or investigation, the department issues a citation, the commissioner  
18 shall, at a reasonable time after the termination of the inspection or  
19 investigation, notify the employer by certified mail of the penalty  
20 proposed to be assessed and that the employer has 15 working days within  
21 which to notify the commissioner and the OSHA Review Board that he  
22 wishes to contest the citation or proposed assessment of penalty. If,  
23 within 15 working days from the receipt of the notice issued by the  
24 commissioner, the employer fails to notify the OSHA Review Board that  
25 he intends to contest the citation, or proposed assessment of penalty,  
26 the citation and the assessment, as proposed, shall be considered final  
27 and not subject to review by any court.

28 (b) If the commissioner has reason to believe that an employer has  
29 failed to correct, within the period allowed, a violation for which a

1 citation has been issued, the commissioner shall notify the employer  
2 by certified mail of the failure, of the penalty proposed to be assessed  
3 because of the failure, and that the employer has 15 working days within  
4 which to notify the commissioner and the OSHA Review Board that he  
5 wishes to contest the commissioner's notification of the proposed assess-  
6 ment of penalty. If, within 15 working days from the receipt of the  
7 notification issued by the commissioner, the employer fails to give  
8 notice that he intends to contest the notification or proposed assess-  
9 ment of penalty, the notification and assessment as proposed shall be  
10 considered a final order and not subject to review by any court.

11 (c) If an employer gives notice that he intends to contest the  
12 citation or notification issued under (a) or (b) of this section, the  
13 OSHA Review Board shall afford an opportunity for a hearing and there-  
14 after issue an order, based on findings of fact, affirming, modifying,  
15 or vacating the original citation or proposed penalty, or directing  
16 other appropriate relief, and the order is final 30 days after its  
17 issuance.

18 (d) The OSHA Review Board shall notify the authorized representa-  
19 tive of the affected employees that an employer is contesting a citation  
20 or notification issued under (a) or (b) of this section and afford the  
21 representative an opportunity to participate in the hearing on the  
22 matter. When there is no authorized employee representative, the OSHA  
23 Review Board shall notify a reasonable number of the affected employees  
24 of the contest and afford them an opportunity to participate in the  
25 hearing on the matter.

26 (e) An employer, an affected employee or a representative of  
27 affected employees has 15 working days from the receipt of a citation  
28 within which to notify the commissioner and the OSHA Review Board that  
29 the period of time fixed in the citation for the abatement of a

1 violation is unreasonable. The OSHA Review Board shall afford an  
2 opportunity for a hearing and thereafter issue an order, based on  
3 findings of fact, affirming or modifying the original period for abate-  
4 ment, and the order is final 30 days after its issuance. If the  
5 contest is initiated by the employer, the OSHA Review Board shall  
6 notify the employees in the same manner as provided by (d) of this  
7 section. If the contest is initiated by the employees, the OSHA Review  
8 Board shall notify the employer and afford the employer an opportunity  
9 to participate in the hearing on the matter.

10 Sec. 18.60.095. PENALTIES. (a) An employer who wilfully or  
11 repeatedly violates a provision of secs. 10 - 100 of this chapter that  
12 is applicable to the employer or a standard, rule or regulation promul-  
13 gated under secs. 10 - 100 of this chapter may be assessed by the  
14 commissioner a civil penalty of not more than \$10,000 for each viola-  
15 tion.

16 (b) An employer who receives a citation for a serious violation  
17 of a provision of secs. 10 - 100 of this chapter that is applicable  
18 to the employer or of a standard, rule or regulation promulgated under  
19 secs. 10 - 100 of this chapter shall be assessed by the commissioner  
20 a civil penalty of up to \$1,000 for each violation. For purposes of  
21 this subsection, a serious violation is considered to exist if the  
22 violation creates in the place of employment a substantial probability  
23 of death or serious physical harm. However, a serious violation is  
24 not considered to exist if the employer did not, and could not with  
25 the exercise of reasonable diligence, know of the presence of the  
26 violation.

27 (c) An employer who receives a citation for a violation of a  
28 provision of secs. 10 - 100 of this chapter that is applicable to the  
29 employer of a standard, rule or regulation promulgated under secs.

1 10 - 100 of this chapter, and the violation is specifically determined  
2 not to be of a serious nature, may be assessed by the commissioner a  
3 civil penalty of up to \$1,000 for each violation.

4 (d) An employer who fails to correct a violation within the  
5 period permitted for its correction for which a citation has been  
6 issued may be assessed by the commissioner a civil penalty of not more  
7 than \$1,000 for each day during which the failure to correct the  
8 violation continues.

9 (e) An employer who wilfully or repeatedly violates a provision  
10 of secs. 10 - 100 of this chapter that is applicable to the employer  
11 or a standard, rule or regulation promulgated under secs. 10 - 100 of  
12 this chapter, and the violation causes death to an employee, upon con-  
13 viction, is punishable by a fine of not more than \$10,000, or by  
14 imprisonment for not more than six months, or by both. However, upon  
15 a second conviction after a prior conviction for a violation causing  
16 death, an employer is punishable by a fine of not more than \$20,000,  
17 or by imprisonment for not more than one year, or by both.

18 (f) A person who knowingly makes a false statement, representa-  
19 tion, or certification in an application, record, report, plan or other  
20 document filed or required to be maintained under secs. 10 - 100 of  
21 this chapter, upon conviction, is punishable by a fine of not more than  
22 \$10,000, or by imprisonment for not more than six months, or by both.

23 (g) An employer who violates the posting requirements of this  
24 chapter shall be assessed by the commissioner a civil penalty of up  
25 to \$1,000 for each violation.

26 (h) In assessing a civil penalty, the commissioner shall give  
27 due consideration to the size of the business of the employer being  
28 charged, the gravity of the violation, the good faith of the employer,  
29 and the history of previous violations.

1           Sec. 18.60.096. IMMEDIATE DANGERS. (a) The commissioner, or his  
2 designated agent as authorized by the commissioner, may issue orders  
3 restraining a particular condition or practice in any place of employ-  
4 ment that constitutes a danger which could reasonably be expected to  
5 immediately cause death or serious physical harm. The terms of an  
6 order issued under this section may require steps to be taken as neces-  
7 sary to avoid, correct, or remove the imminent danger and may prohibit  
8 the employment or presence of an individual in locations or under  
9 conditions where imminent danger exists. The terms of the order may  
10 allow the presence of individuals necessary to avoid, correct, or  
11 remove the imminent danger.

12           (b) When and as soon as a representative of the department con-  
13 cludes that conditions or practices described in (a) of this section  
14 exist in any place of employment, he shall inform the affected employees  
15 and employer of the danger and that he is recommending to the commis-  
16 sioner, or his designated agent as authorized by the commissioner, the  
17 issuance of a restraining order.

18           (c) The attorney general shall, when requested by the commissioner,  
19 seek an injunction in superior court to enforce a restraining order  
20 issued under this section.

21           (d) If the commissioner arbitrarily or capriciously fails to  
22 issue a restraining order under this section, an employee who may be  
23 injured by reason of the failure, or the representative of the affected  
24 employees, may bring an action against the commissioner in superior  
25 court for a writ of mandamus to compel the commissioner to issue a  
26 restraining order and for further relief as may be appropriate.

27           Sec. 18.60.097. JUDICIAL REVIEW. (a) A person affected by an  
28 order of the OSHA Review Board issued under sec. 93(c) or (e) of this  
29 chapter or of the commissioner under sec. 96 of this chapter may

1 obtain a review of the order by filing a complaint challenging the  
2 order in superior court. The affected person must file the complaint  
3 within 30 days from the date of the issuance of the order by the  
4 commissioner or the OSHA Review Board. After 30 days from the date  
5 of the issuance of the order by the commissioner or the OSHA Review  
6 Board, the order becomes final and is not subject to review by any  
7 court.

8 (b) An employer seeking judicial review of an order of the  
9 OSHA Review Board or the commissioner must inform his affected employees  
10 of the fact that he is seeking judicial review.

11 (c) The court shall review an order of the OSHA Review Board  
12 or the commissioner on a substantial evidence basis.

13 Sec. 18.60.098. EMPLOYEE COMPENSATION FOR APPEARANCES. (a) The  
14 employer shall compensate any of his employees who appear at a board  
15 hearing under secs. 10 - 100 of this chapter for loss of wages if the  
16 employee appears at the hearing as the result of a request of the  
17 employer or as the result of a subpoena issued at the employer's  
18 request.

19 (b) The employer shall compensate any of his employees who  
20 appear at a judicial proceeding under secs. 10 - 100 of this chapter  
21 for loss of wages if the employee appears at the proceeding as the  
22 result of a request of the employer or as the result of a subpoena  
23 issued at the employer's request.

24 (c) An employee who appears at a board hearing under secs. 10 -  
25 100 of this chapter as the result of a request of the state or the  
26 OSHA Review Board or as the result of a subpoena issued at the request  
27 of the state or the OSHA Review Board shall be compensated at the  
28 rate of \$30 a day and transportation costs.

29 Sec. 18.60.099. CONFIDENTIALITY OF TRADE SECRETS. Information

1 obtained by the department in connection with an inspection or proceed-  
2 ing related to enforcement of occupational safety and health standards  
3 which contains or which might reveal a trade secret referred to in  
4 18 U.S.C., sec. 1905 is confidential. However, the information may  
5 be disclosed to other officers or employees concerned with carrying  
6 out occupational safety and health enforcement activities. In a pro-  
7 ceeding, the commissioner or the court as may be applicable shall issue  
8 orders as may be appropriate to protect the confidentiality of trade  
9 secrets.

10 \* Sec. 8. AS 18.60.105 is repealed and re-enacted to read:

11 Sec. 18.60.105. DEFINITIONS. In secs. 10 - 100 of this chapter

12 (1) "commissioner" means the commissioner of labor;

13 (2) "department" means the Department of Labor;

14 (3) "employee" means a person who works for an employer;

15 (4) "employer" means a person, including the state and  
16 political subdivisions of the state, who has one or more employees;

17 (5) "suitable protective equipment" includes such personal  
18 protective equipment as is required by regulation issued under this  
19 chapter.

20 \* Sec. 9. AS 18.60.050, 18.60.090 and 18.60.075(c) are repealed.  
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