

Original sponsor: Rules Committee by request  
of the Governor

Offered: 5/19/77  
Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 131 (Commerce)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workmen's compensation."

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

8 \* Section 1. AS 21.33.100 is amended by adding a new paragraph to read:

9 (5) the surplus line broker or unauthorized insurer, either  
10 directly or through an independent contractor, provides claims services  
11 in the state of Alaska and loss control services substantially equivalent  
12 to those required of authorized insurers under AS 23.30.032.

13 \* Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

14 (d) This section does not apply to workmen's compensation insur-  
15 ance when issued to an association of employers formed for purposes  
16 other than the purchase of insurance and which

17 (1) has a constitution and bylaws;

18 (2) incorporates a safety program;

19 (3) as a group has preferred characteristics over similar  
20 risks written on an individual basis; and

21 (4) has filed and received approval from the director for the  
22 rating program to be applied to the group.

23 \* Sec. 3. AS 23.30.015(e)(2) is amended to read:

24 (2) the employer shall pay any excess to the person entitled  
25 to compensation or to his representative [, LESS ONE-FOURTH OF THE EX-  
26 CESS, NOT TO EXCEED \$10,000, TO BE RETAINED BY THE EMPLOYER].

27 \* Sec. 4. AS 23.30 is amended by adding a new section to read:

28 Sec. 23.30.032. SAFETY AND HEALTH SERVICES. (a) Any insurer  
29 that issues insurance contracts under this chapter shall, in accordance

1 with a program approved by the board, furnish occupational safety and  
2 health consultative services to its insured employers. These consulta-  
3 tive services shall be designed to promote occupational safety and reduce  
4 occupational health hazards.

5 (b) An insurer may furnish any of the services required by (a) of  
6 this section through an independent contractor that is approved by the  
7 board.

8 (c) The program of an insurer for furnishing consultative services  
9 as required by this section shall be adequate to meet the minimum stan-  
10 dards prescribed by the board by regulation from time to time. An  
11 application for approval of a program, or a proposed change in an  
12 approved program, shall be filed with the board. Upon approval of an  
13 application, the board shall notify the applicant and, upon approval of  
14 the application of an insurer, send a copy of such notice to the director  
15 of the division of insurance.

16 \* Sec. 5. AS 23.30 is amended by adding a new section to read:

17 Sec. 23.30.091. SELF-INSURANCE RECORDS. (a) Every self-insured  
18 employer shall maintain a place of business in this state where the  
19 employer shall keep complete records of all claims for compensation made  
20 to the employer under this chapter or a self-insured employer may, under  
21 the conditions prescribed by the board, keep such records in this state  
22 at a place operated by a service company. The records shall be retained  
23 in, and may be removed from, this state or disposed of, in accordance  
24 with regulations adopted by the board. The records shall be available  
25 to the board for examination and audit at all reasonable times upon  
26 notice by the board to the employer.

27 (b) With the permission of the board, a self-insured employer may  
28 keep all claims records and process claims from a location outside the  
29 state. The board shall by regulation prescribe the conditions and

1 procedure for obtaining its permission. The board may revoke its  
2 permission for failure of the employer to comply with the regulations.  
3 If the permission of an employer is revoked by the board, the employer  
4 shall be allowed 60 days after the order of revocation becomes final to  
5 comply with (a) of this section. The expenses of the board to examine  
6 and audit the records of a self-insured employer outside this state shall  
7 be paid by the employer.

8 \* Sec. 6. AS 23.30.095(a) is amended to read:

9 (a) The employer shall furnish medical, surgical, and other  
10 attendance or treatment, nurse and hospital service, medicine, crutches,  
11 and apparatus for the period which the nature of the injury or the pro-  
12 cess of recovery requires [NOT EXCEEDING TWO YEARS FROM AND AFTER THE  
13 DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE  
14 TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD  
15 RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS  
16 DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.  
17 IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE  
18 OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE  
19 HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED  
20 TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When  
21 medical care is required, the injured employee may designate a licensed  
22 physician inside the state to render the care except in cases where, in  
23 the judgment of the board, care or treatment or both can best be admin-  
24 istered by the selection of another physician. Upon procuring the  
25 services of a physician, the injured employee shall give proper notifi-  
26 cation of his selection to the employer within a reasonable time after  
27 first being treated. If for any reason during the period when medical  
28 care is required the employee wishes to change to another physician, he  
29 may do so in accordance with rules prescribed by the board.

1 \* Sec. 7. AS 23.30.172 is amended to read:

2       Sec. 23.30.172. BENEFIT ADJUSTMENTS. Benefits for temporary total  
3 disability cases which have existed for more than two years and permanent  
4 total disability shall be calculated under this chapter according to  
5 currently existing benefit rates regardless of the benefit rates in  
6 existence at the time of the injury, unless this calculation would cause  
7 a decrease in the actual benefits receivable. This section does not  
8 apply to death or survivors' benefits.

9 \* Sec. 8. AS 23.30.175(a) is amended to read:

10       (a) The weekly rate of compensation for disability or death for a  
11 recipient residing in Alaska [WHOSE AVERAGE WEEKLY WAGES, AS COMPUTED  
12 UNDER SEC. 220 OF THIS CHAPTER, ARE AT LEAST \$65 A WEEK,] may not exceed  
13 the percentage of the Alaska average weekly wage in effect on the date  
14 of injury as determined by the table contained in this subsection and  
15 initially may not be less than \$65 a week. However, if the board  
16 determines that the employee's average weekly wages are less than \$65 a  
17 week as computed under sec. 220 of this chapter, it shall issue an order  
18 decreasing the compensation to a rate equal to the employee's average  
19 weekly wages, and payments made earlier in excess of the decreased rate  
20 shall be deducted from the unpaid compensation in the manner the board  
21 determines. In any case, the employer shall pay timely compensation.

22 [IF THE EMPLOYEE'S AVERAGE WEEKLY WAGES, AS COMPUTED UNDER SEC. 220 OF  
23 THIS CHAPTER, ARE LESS THAN \$65 A WEEK, HE SHALL RECEIVE AS COMPENSATION  
24 FOR HIS DISABILITY HIS AVERAGE WEEKLY WAGES.]

On	The Rate Shall Be
July 1, 1975	80 per cent of the Alaska average weekly wage
January 1, 1976	100 per cent of the Alaska average weekly wage



1 \* Sec. 13. AS 23.30.215(e) is amended to read:

2 (e) Total compensation under this section may not exceed \$400,000  
3 except as follows:

4 (1) The monetary limitations of this section notwithstanding,  
5 a surviving widow or widower who was dependent upon the deceased employee  
6 at the time of death and incapable of self-support by reason of mental  
7 or physical disability or otherwise not employable, as determined by  
8 the board, and who has not remarried shall continue to receive death  
9 benefits until death or such condition changes.

10 (2) Total compensation under this section in an amount not to  
11 exceed \$750,000 may be paid if the board determines on the basis of clear  
12 and convincing evidence that

13 (A) the claimant is a widow or widower who has not re-  
14 married and subsequently becomes incapable of self-support or un-  
15 employable by reason of a mental or physical disability or other  
16 circumstances beyond his control; and

17 (B) the \$400,000 limit imposed by this section will be  
18 reached during the continuance of the disability described in (A)  
19 of this paragraph.

20 (3) Compensation payments in excess of the \$400,000 total  
21 imposed by this section shall cease when the conditions under (2) of this  
22 subsection which entitled the claimant to the extra payment no longer  
23 exist.

24 \* Sec. 14. AS 23.30.215 is amended by adding new subsections to read:

25 (f) In the event a deceased employee is survived by a child of a  
26 former marriage not living with the surviving widow or widower, the  
27 board may, in the interest of equity, change the portion of the children's  
28 benefit to which that child is entitled under this section.

29 (g) The monetary limitations of this section notwithstanding, a

1 child or children of the deceased employee may continue to receive death  
2 benefits until death or until total compensation of \$750,000 has been  
3 paid.

4 (h) In the event the total amount of all benefits computed under  
5 (a)(2) of this section exceeds the maximum benefit provided in sec. 175  
6 of this chapter, the maximum benefit under sec. 175 of this chapter  
7 shall be prorated among entitled survivors.

8 (i) For the purpose of determining whether the monetary limits in  
9 (e) and (g) of this section have been reached, "compensation" includes  
10 payments made under the social security system.

11 \* Sec. 15. AS 23.30 is amended by adding a new section in art. 5 to read:

12 Sec. 23.30.225. SOCIAL SECURITY OFFSET. (a) Where periodic  
13 retirement or survivors' benefits are payable under Title II of the  
14 Social Security Act (42 U.S.C. 301 et seq.), the weekly compensation  
15 provided for in this chapter shall be reduced by an amount equal as  
16 nearly as practicable to one-half of the federal periodic benefits for a  
17 given week.

18 (b) In cases where it is determined that, in accordance with 42  
19 U.S.C. 401 et seq., periodic disability benefits are payable to an em-  
20 ployee or his dependents for an injury for which a claim has been filed  
21 under this chapter, weekly disability benefits payable under this chap-  
22 ter shall be offset by an amount by which the sum of (1) weekly benefits  
23 to which the employee is entitled under 42 U.S.C. 401 et seq., and (2)  
24 weekly disability benefits to which the employee would otherwise be en-  
25 titled under this chapter, exceeds 80 per cent of the employee's average  
26 weekly wages at the time of injury.

27 \* Sec. 16. AS 23.30 is amended by adding new sections to read:

28 Sec. 23.30.252. OBTAINING BENEFITS BY FALSE PRETENSES. A person  
29 who obtains a payment or benefit under this chapter by wilfully making

1 a false or misleading statement is guilty of obtaining money by false  
2 pretenses and upon conviction is punishable under AS 11.20.360.

3 Sec. 23.30.266. DUTY TO REPORT VIOLATIONS. A person who knows  
4 that there has been a violation of secs. 245 - 260 of this chapter shall  
5 report the violation to the board within 10 days of learning of the  
6 violation. A person who fails to report a violation under this section  
7 is guilty of a misdemeanor and is punishable under AS 11.05.010.

8 \* Sec. 17. This Act does not apply to cases arising out of injuries or  
9 deaths which occurred before the effective date of this Act.