

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 33 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/22/91

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES KOPONEN, Brown, Donley, Moyer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to penalties for violation of workplace safety laws; and assessing costs
2 for an employer's failure to appear at certain hearings of the OSHA Review Board."

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

4 * Section 1. AS 18.60.093 is amended by adding a new subsection to read:

5 (f) If an employer fails without good cause to appear at a hearing held under this section
6 after receiving proper notice of the hearing, the OSHA Review Board may order the employer
7 to pay all reasonable expenses incurred by the board for the hearing, including the board's actual
8 travel expenses and per diem.

9 * Sec. 2. AS 18.60.095 is amended to read:

10 Sec. 18.60.095. PENALTIES. (a) An employer who knowingly [WILFULLY] or
11 repeatedly violates a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer
12 or a standard or regulation adopted under AS 18.60.010 - 18.60.105 may be assessed by the
13 commissioner a civil penalty in an amount determined under (h) of this section [OF NOT
14 MORE THAN \$10,000] for each violation.

1 (b) An employer who receives a citation for a serious violation of a provision of
2 AS 18.60.010 - 18.60.105 that is applicable to the employer or of a standard or regulation
3 adopted under AS 18.60.010 - 18.60.105 shall be assessed by the commissioner a civil penalty
4 in an amount determined under (h) of this section [OF UP TO \$1,000] for each violation.
5 For purposes of this subsection, a serious violation is considered to exist if the violation creates
6 in the place of employment a substantial probability of death or serious physical harm. However,
7 a serious violation is not considered to exist if the employer did not, and could not with the
8 exercise of reasonable diligence, know of the presence of the violation.

9 (c) An employer who receives a citation for a violation of a provision of AS 18.60.010 -
10 18.60.105 that is applicable to the employer or a standard or regulation adopted under
11 AS 18.60.010 - 18.60.105, and the violation is specifically determined not to be of a serious
12 nature, may be assessed by the commissioner a civil penalty in an amount determined under
13 (h) of this section [OF UP TO \$1,000] for each violation.

14 (d) An employer who fails to correct a violation within the period permitted for its
15 correction for which a citation has been issued may be assessed by the commissioner a civil
16 penalty in an amount determined under (h) of this section [OF NOT MORE THAN \$1,000]
17 for each day during which the failure to correct the violation continues.

18 (e) An employer who knowingly [WILFULLY] or repeatedly violates a provision of
19 AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted
20 under AS 18.60.010 - 18.60.105, and the violation causes death to an employee, upon conviction,
21 is punishable by a fine in an amount determined under (h) of this section [OF NOT MORE
22 THAN \$10,000], or by imprisonment for not more than six months, or by both. However, upon
23 a second conviction after a prior conviction for a violation causing death, an employer is
24 punishable by a fine in an amount determined under (h) of this section [OF NOT MORE
25 THAN \$20,000], or by imprisonment for not more than one year, or by both.

26 (f) A person who knowingly makes a false statement, representation, or certification in
27 an application, record, report, plan or other document filed or required to be maintained under
28 AS 18.60.010 - 18.60.105, upon conviction, is punishable by a fine in an amount determined
29 under (h) of this section [OF NOT MORE THAN \$10,000], or by imprisonment for not more
30 than six months, or by both.

31 (g) An employer who violates the posting requirements of this chapter shall be assessed

1 by the commissioner a civil penalty in an amount determined under (h) of this section [OF
2 UP TO \$1,000] for each violation.

3 (h) In assessing a civil penalty under this section, the commissioner

4 (1) shall give due consideration to the size of the business of the employer being
5 charged, the gravity of the violation, the good faith of the employer, and the history of previous
6 violations;

7 (2) shall assess a minimum penalty of \$5,000 if an employer committed a
8 violation under (f) of this section or knowingly committed a violation under (a) or (e) of this
9 section;

10 (3) may not assess a penalty that is higher than the maximum allowed under
11 comparable federal laws; if the penalty assessed is within the allowable maximum, an
12 employer may not challenge it on the basis that application of federal OSHA regulations
13 would have resulted in a different amount; and

14 (4) shall assess penalties in an amount and manner that is required to
15 maintain federal approval of the effectiveness of the state program.