

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 33 (JUDICIARY)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 3/15/91**

**Referred: 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 18.60.085 is amended to read:

10 Sec. 18.60.085. PROHIBITION OF UNAUTHORIZED NOTICE OF INSPECTION. A  
11 person may not give [NO] unauthorized notice of a department safety or health inspection  
12 [MAY BE GIVEN]. A person who gives unauthorized notice of a safety or health inspection,  
13 upon conviction, is punishable by a fine of not more than \$7,000 [\$1,000], or by imprisonment  
14 for not more than 180 days, or by both.

1 \* Sec. 3. AS 18.60.095(a) is amended to read:

2 (a) An employer who knowingly [WILFULLY] or repeatedly violates a provision of  
3 AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted  
4 under AS 18.60.010 - 18.60.105 may be assessed by the commissioner a civil penalty of not more  
5 than \$70,000 [\$10,000] for each violation. Except when a settlement is negotiated, the  
6 commissioner shall assess a minimum penalty of \$5,000 for a violation under this subsection  
7 that was committed knowingly.

8 \* Sec. 4. AS 18.60.095(b) is amended to read:

9 (b) An employer who receives a citation for a serious violation of a provision of  
10 AS 18.60.010 - 18.60.105 that is applicable to the employer or of a standard or regulation  
11 adopted under AS 18.60.010 - 18.60.105 shall be assessed by the commissioner a civil penalty  
12 of up to \$7,000 [\$1,000] for each violation. For purposes of this subsection, a serious violation  
13 is considered to exist if the violation creates in the place of employment a substantial probability  
14 of death or serious physical harm. However, a serious violation is not considered to exist if the  
15 employer did not, and could not with the exercise of reasonable diligence, know of the presence  
16 of the violation.

17 \* Sec. 5. AS 18.60.095(c) is amended to read:

18 (c) An employer who receives a citation for a violation of a provision of AS 18.60.010 -  
19 18.60.105 that is applicable to the employer or a standard or regulation adopted under  
20 AS 18.60.010 - 18.60.105, and the violation is specifically determined not to be of a serious  
21 nature, may be assessed by the commissioner a civil penalty of up to \$7,000 [\$1,000] for each  
22 violation.

23 \* Sec. 6. AS 18.60.095(d) is amended to read:

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

28 \* Sec. 7. AS 18.60.095(e) is amended to read:

29 (e) An employer who knowingly, [WILFULLY] or repeatedly with criminal negligence,  
30 as defined in AS 11.81.900, violates a provision of AS 18.60.010 - 18.60.105 that is applicable  
31 to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105, and the

1 violation causes death to an employee, upon conviction, is guilty of a class A misdemeanor  
2 punishable under AS 12.55, except that the maximum fine that the court may impose on a  
3 defendant who is an individual is \$70,000 for a first conviction under this subsection and  
4 \$140,000 for a subsequent conviction under this subsection. This subsection does not  
5 preclude a prosecution brought under AS 11 [BY A FINE OF NOT MORE THAN \$10,000,  
6 OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH.  
7 HOWEVER, UPON A SECOND CONVICTION AFTER A PRIOR CONVICTION FOR A  
8 VIOLATION CAUSING DEATH, AN EMPLOYER IS PUNISHABLE BY A FINE OF NOT  
9 MORE THAN \$20,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR  
10 BY BOTH].

11 \* Sec. 8. AS 18.60.095(f) is amended to read:

12 (f) A person who knowingly makes a false statement, representation, or certification in  
13 an application, record, report, plan or other document filed or required to be maintained under  
14 AS 18.60.010 - 18.60.105, upon conviction, is punishable by a fine of not more than \$70,000  
15 [\$10,000], or by imprisonment for not more than six months, or by both.

16 \* Sec. 9. AS 18.60.095(g) is amended to read:

17 (g) An employer who violates the posting requirements of this chapter shall be assessed  
18 by the commissioner a civil penalty of up to \$7,000 [\$1,000] for each violation.

19 \* Sec. 10. AS 18.60.085 and 18.60.095, as amended by secs. 2 - 9 of this Act, apply to violations  
20 that occur on or after the effective date of this Act.