

**HOUSE BILL NO. 468**

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

**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Introduced: 2/12/92**

**Referred: Labor & Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to unfair trade practices by construction contractors."**

**2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**3 \* Section 1. AS 09.55 is amended by adding a new section to read:**

**4 ARTICLE 10. ACTIONS BY LOSING CONSTRUCTION BIDDERS.**

**5 Sec. 09.55.700. ACTIONS AGAINST NONCOMPLYING CONSTRUCTION BIDDERS.**

**6 (a) If a person suffers damages as a result of a competitive bid for a construction contract losing**  
**7 to the bid of a person who knowingly violates AS 23.20.165, AS 23.30.045, or 26 U.S.C. 3101 -**  
**8 3128 (Federal Insurance Contributions Act) by treating an employee as an independent**  
**9 contractor while performing the contract, the person may bring an action for the damages or for**  
**10 injunctive relief against the person who was awarded the contract.**

**11 (b) Notwithstanding (a) of this section, a person who brings an action under (a) of this**  
**12 section may not recover for damages or obtain injunctive relief, except for a temporary**  
**13 restraining order, under this section if the person against whom the action is brought establishes**  
**14 that when bidding on the contract the person bringing the action was knowingly in violation of**

1 an employee provision by treating an employee as an independent contractor.

2 (c) The attorney general may bring an action in superior court against a person who  
3 knowingly violates an employee provision by treating an employee as an independent contractor  
4 while performing a construction contract obtained by competitive bid. In addition to any other  
5 penalty allowed by law, the court may

6 (1) impose a civil penalty of up to \$2,000 for each violation;

7 (2) enjoin the person from continuing the violation or committing further  
8 violations; and

9 (3) impose a civil penalty of up to \$5,000 if the person violates an injunction  
10 issued under (2) of this subsection.

11 (d) An action brought under this section must be commenced within two years of the  
12 substantial completion of the construction project that was the subject of the contract.

13 (e) In this section,

14 (1) "action" includes a counterclaim;

15 (2) "construction" means the construction, repair, remodeling, alteration,  
16 conversion, modernization, replacement, or renovation of a building or other structure;

17 (3) "damages" does not include the physical, mental, or emotional injury of an  
18 individual;

19 (4) "employee provision" means AS 23.20.165, AS 23.30.045, or 26 U.S.C. 3101 -  
20 3128 (Federal Insurance Contributions Act);

21 \* Sec. 2. This Act applies only to contracts entered into on or after the effective date of this Act.