

SENATE BILL NO. 320

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS COLLINS, Pearce

Introduced: 1/13/92

Referred: L&C, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to occupational safety and health; and providing for an effective date."

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

3 * Section 1. AS 18.60 is amended by adding new sections to read:

4 Sec. 18.60.042. INJURY PREVENTION PROGRAM. (a) An employer shall establish
5 a written injury prevention program. The program must include

6 (1) identification of the individual or individuals responsible for implementing the
7 program;

8 (2) the employer's system for identifying and evaluating workplace hazards; the
9 system must include scheduled, periodic inspections to identify unsafe conditions and work
10 practices;

11 (3) the employer's methods and procedures for correcting unsafe or unhealthy
12 conditions and work practices in a timely manner;

13 (4) an occupational health and safety training program designed to instruct
14 employees in general safe and healthy work practices and to provide specific instruction with

1 respect to hazards specific to each employee's job assignment;

2 (5) the employer's system for communicating with employees on occupational
3 health and safety matters, including provisions to encourage employees to inform the employer
4 of hazards at the worksite without fear of reprisal;

5 (6) the employer's system for ensuring that employees comply with safe and
6 healthy work practices; the system may include disciplinary action.

7 (b) An employer shall correct unsafe and unhealthy conditions and work practices within
8 a reasonable time given the severity of the hazard.

9 (c) An employer shall provide training in injury prevention to

10 (1) all employees when the training program is first established;

11 (2) each new employee immediately after the employee is hired;

12 (3) each employee given a new job assignment; and

13 (4) all employees whenever new substances, processes, procedures, or equipment
14 are introduced to the workplace and represent a new hazard and whenever the employer receives
15 notification of a new or previously unrecognized hazard.

16 (d) The employer shall implement and maintain the employer's injury prevention program
17 and keep appropriate records of steps taken to do so.

18 (e) The department shall adopt, by regulation, a standard setting out the employer's duties
19 under this section. In adopting the standard, the department shall include substantial compliance
20 criteria for use in evaluating an employer's injury prevention program. The department may
21 adopt less stringent criteria for employers with fewer employees and for employers in industries
22 with insignificant occupational safety or health hazards.

23 (f) The standard adopted under (e) of this section must specifically permit an employer
24 to establish an employer-employee occupational safety and health committee as part of the
25 employer's injury prevention program. The department shall establish criteria for use of these
26 committees. The criteria must include minimum powers and duties and must

27 (1) require the committee to review the employer's

28 (A) periodic, scheduled worksite inspections;

29 (B) investigations of causes of incidents resulting in injury, illness, or
30 exposure to hazardous substances; and

31 (C) investigations of an alleged hazardous condition brought to the

1 attention of a committee member;
2 (2) permit the committee to conduct its own inspections and investigations when
3 determined necessary by the committee;

4 (3) require the committee, when requested by the department, to verify abatement
5 action taken by the employer as specified in citations issued by the department.

6 (g) If an employer has established an occupational safety and health committee that meets
7 the criteria established by the department under this section, the employer shall be rebuttably
8 presumed to be in substantial compliance with the requirement to maintain a system of
9 communication with employees under (a)(5) of this section.

10 (h) The department shall adopt regulations specifying the procedures for selecting
11 employee representatives for employer-employee occupational health and safety committees when
12 these procedures are not specified in an applicable collective bargaining agreement. An employee
13 or employee organization may not be held liable for an act or omission in connection with a
14 health and safety committee established under this section.

15 Sec. 18.60.043. LIST OF HIGH HAZARD INDUSTRIES; REGIONAL
16 ENFORCEMENT PLANS. (a) The commissioner shall establish a list of the 100 highest hazard
17 industries in the state. To assess safety hazards and health hazards, the commissioner shall use
18 data from the Alaska Workers' Compensation Board, the division of labor standards and safety,
19 the OSHA Review Board, and all other appropriate information available for determining which
20 industries to include on the list because of safety hazards, health hazards, or both. The
21 commissioner shall review the list every two years.

22 (b) The department shall establish and maintain regional plans for allocating the
23 department's resources for enforcement activities. In scheduling safety inspections and health
24 inspections covered by the plan, as well as other inspections that the department determines are
25 appropriate to the region, including the cleanup of hazardous waste sites, each regional plan must
26 focus on industries selected from the commissioner's list of high hazard industries established
27 under (a) of this section. The sizes of businesses with the greatest degree of hazards within an
28 industry selected for inspection in the regional plan must be a major criterion in scheduling
29 specific inspections under the plan.

30 (c) In order to maximize the effect of the regional plans, the department shall coordinate
31 its education, training, and consulting services with the priorities established in the regional plans.

1 **Sec. 18.60.044. INSPECTIONS.** (a) Each inspection conducted by the department shall
2 include an evaluation of the employer's injury prevention program under AS 18.60.042. The
3 department shall evaluate injury prevention programs using the criteria for substantial compliance
4 determined by the department. The evaluation shall include interviews with a sample of
5 employees and the members of any employer-employee occupational safety and health committee.
6 Before an inspection is concluded, the department shall notify the employer of the services
7 available from the department to assist the employer to establish, maintain, improve, and evaluate
8 the employer's injury prevention program.

9 (b) Inspections must also include an evaluation of the condition or conditions

10 (1) alleged in the complaint if the inspection is conducted under AS 18.60.088;

11 (2) related to the asbestos health hazard abatement program under AS 18.31;

12 (3) related to significant safety or health hazards in the industries identified in the
13 regional plans developed under AS 18.60.043; and

14 (4) involved in abatement of previous violations if the employer has been
15 inspected and cited for related or the same violations in the past;

16 (c) The scope of an inspection may be expanded beyond the evaluations specified in (a)
17 and (b) of this section whenever, in the opinion of the department, a more complete inspection
18 is warranted.

19 * **Sec. 2.** AS 18.60.030 is amended by adding a new paragraph to read:

20 (15) offer a full range of occupational safety and health consulting services to
21 employers including assisting in the development of injury prevention programs for employees
22 and employers; the department shall give the highest priority for the consulting services to the
23 development of programs for businesses with fewer than 250 employees in industries identified
24 in the plans developed under AS 18.60.043; consulting services may also include providing
25 employers or employees with information, advice, and recommendations on maintaining safe
26 employment or a safe place of employment and on applicable occupational safety and health
27 standards, techniques, devices, methods, practices, or programs.

28 * **Sec. 3.** AS 18.60.089(a) is amended to read:

29 (a) A person may not discharge or discriminate against an employee because the
30 employee has

31 (1) filed a complaint or instituted or caused to be instituted a proceeding related

1 to the enforcement of occupational safety and health standards;

2 (2) [, OR HAS] testified or is expected to testify in a proceeding relating to
3 occupational safety and health;

4 (3) [OR BECAUSE AN EMPLOYEE HAS] exercised personally or on behalf of
5 others a right afforded under AS 18.60.010 - 18.60.105; or

6 (4) participated in an occupational health and safety committee established
7 under AS 18.60.042.

8 * Sec. 4. AS 18.60.095 is amended by adding a new subsection to read:

9 (i) Notwithstanding (h) of this section, if serious injury, illness, exposure, or death is
10 caused by a serious, wilful, or repeated violation, or by a failure to correct a serious violation
11 within the time permitted for its correction, the penalty may not be reduced for a reason other
12 than the size of the business of the employer being charged. Whenever the department issues
13 a citation for a violation covered by this subsection, it shall notify the employer of its
14 determination that serious injury, illness, exposure, or death was caused by the violation and
15 shall, upon request, provide the employer with a copy of the inspection report.

16 * Sec. 5. AS 23.30.090 is amended by adding a new subsection to read:

17 (b) The board may, after a hearing, revoke an employer's certificate of self-insurance if
18 the board finds that

19 (1) the employer has been cited for a wilful violation or for repeated, serious
20 violations of the standard adopted under AS 18.60.042; and

21 (2) the citation has become final.