

CS FOR SENATE BILL NO. 320 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/21/92
Referred: Finance

Sponsor(s): SENATORS COLLINS, Pearce

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 covered by this
5 section shall establish 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 covered by this section to establish an employer-employee occupational safety and health
25 committee as part of the employer's injury prevention program. The department shall establish
26 criteria for use of these committees. The criteria must include minimum powers and duties and
27 must

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

29 (A) periodic, scheduled worksite inspections;

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

1 (C) investigations of an alleged hazardous condition brought to the
2 attention of a committee member;

3 (2) permit the committee to conduct its own inspections and investigations when
4 determined necessary by the committee;

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

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

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

16 (i) An employer exempt under (j)(3) of this section from the requirements of (a) - (h) of
17 this section shall establish and maintain an effective program of communicating with employees
18 on occupational health and safety matters, including provisions to encourage employees to inform
19 the employer of hazards at the worksite without fear of reprisal.

20 (j) This section does not apply to

21 (1) an employer regulated by 30 U.S.C. 801 - 962, as amended (federal Mine
22 Safety and Health Act;

23 (2) an employer regulated by a state or federal agency that prescribes or enforces,
24 under authority other than this section, standards or regulations affecting occupational health and
25 safety;

26 (3) an employer with fewer than seven employees; however, the employer shall
27 comply with (i) of this section.

28 Sec. 18.60.043. LIST OF HIGH HAZARD INDUSTRIES; REGIONAL
29 ENFORCEMENT PLANS. (a) The commissioner shall establish a list of the 100 highest hazard
30 industries in the state. To assess safety hazards and health hazards, the commissioner shall use
31 data from the Bureau of Labor Statistics annual survey of occupational safety and health injuries

1 and illness, Alaska Workers' Compensation Board, and the division of labor standards and safety,
2 and all other appropriate information available for determining which industries to include on the
3 list because of safety hazards, health hazards, or both. The commissioner shall review the list
4 every year.

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

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

15 Sec. 18.60.044. INSPECTIONS. (a) Each inspection conducted by the department shall,
16 if applicable, include an evaluation of the employer's injury prevention program under
17 AS 18.60.042. The department shall evaluate injury prevention programs using the criteria for
18 substantial compliance determined by the department. The evaluation shall include interviews
19 with a sample of employees and the members of any employer-employee occupational safety and
20 health committee. Before an inspection is concluded, the department shall notify the employer
21 of the services available from the department to assist the employer to establish, maintain,
22 improve, and evaluate the employer's injury prevention program.

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

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

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

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

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

30 (c) The scope of an inspection may be expanded beyond the evaluations specified in (a)
31 and (b) of this section whenever, in the opinion of the department, a more complete inspection

1 is warranted.

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

3 (1) offer a full range of occupational safety and health consulting services to
4 employers including, for employers covered by AS 18.60.042, assisting in the development of
5 injury prevention programs for employees and employers; the department shall give the highest
6 priority for the consulting services to the development of programs for businesses with fewer than
7 50 employees in industries identified in the plans developed under AS 18.60.043; consulting
8 services may also include providing employers or employees with information, advice, and
9 recommendations on maintaining safe employment or a safe place of employment and on
10 applicable occupational safety and health standards, techniques, devices, methods, practices, or
11 programs.

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

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

15 (1) filed a complaint or instituted or caused to be instituted a proceeding related
16 to the enforcement of occupational safety and health standards;

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

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

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

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

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

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

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

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

5 (2) the citation has become final.