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263

HEADINGS TITLE 18.
HEALTH AND SAFETY.
CHAPTER 60.
SAFETY.
ARTICLE 1.
PREVENTION OF ACCIDENT AND HEALTH HAZARDS.

CITATION SEC. 18.60.091.
CATCH LINE

CITATIONS.

TEXT

(A) IF, UPON INSPECTION OR INVESTIGATION, THE DEPARTMENT BELIEVES THAT AN EMPLOYER HAS VIOLATED A PROVISION OF AS 18.60.010 - 18.60.105 THAT IS APPLICABLE TO THE EMPLOYER, THE DEPARTMENT SHALL WITH REASONABLE PROMPTNESS ISSUE A CITATION TO THE EMPLOYER. EACH CITATION SHALL BE IN WRITING AND SHALL DESCRIBE WITH PARTICULARITY THE NATURE OF THE VIOLATION, INCLUDING REFERENCE TO THE PROVISIONS OF THE CHAPTER OR ANY ORDER, RULE OR REGULATION ALLEGED TO HAVE BEEN VIOLATED, AND SHALL FIX A REASONABLE TIME FOR ABATEMENT OF THE VIOLATION. THE DEPARTMENT MAY PRESCRIBE PROCEDURES FOR THE ISSUANCE OF A NOTICE INSTEAD OF A CITATION WITH RESPECT TO MINOR VIOLATIONS WHICH HAVE NO DIRECT OR IMMEDIATE RELATIONSHIP TO SAFETY OR HEALTH.

(B) UPON RECEIPT BY THE EMPLOYER, EACH CITATION ISSUED UNDER THIS SECTION, OR A COPY OF THE CITATION, SHALL BE IMMEDIATELY AND PROMINENTLY POSTED, AT OR NEAR EACH PLACE THE VIOLATION REFERRED TO IN THE CITATION OCCURRED.

(C) NO CITATION MAY BE ISSUED FOR A PARTICULAR VIOLATION UNDER THIS SECTION AFTER THE EXPIRATION OF 180 DAYS FOLLOWING THE DISCOVERY OF THE VIOLATION BY THE DEPARTMENT OR CORRECTION OF A VIOLATION.

HISTORY (SEC. 7 CH 72 SLA 1973)

RO601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

HEADINGS TITLE 18.
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PREVENTION OF ACCIDENT AND HEALTH HAZARDS.

CITATION SEC. 18.60.093.

CATCH LINE ENFORCEMENT PROCEDURES.

TEXT (A) IF, AFTER AN INSPECTION OR INVESTIGATION, THE DEPARTMENT ISSUES A CITATION, THE COMMISSIONER SHALL, AT A REASONABLE TIME AFTER THE TERMINATION OF THE INSPECTION OR INVESTIGATION, NOTIFY THE EMPLOYER BY CERTIFIED MAIL OF THE PENALTY PROPOSED TO BE ASSESSED AND THAT THE EMPLOYER HAS 15 WORKING DAYS WITHIN WHICH TO NOTIFY THE COMMISSIONER AND THE OSHA REVIEW BOARD THAT HE WISHES TO CONTEST THE CITATION OR PROPOSED ASSESSMENT OF PENALTY. IF, WITHIN 15 WORKING DAYS FROM THE RECEIPT OF THE NOTICE ISSUED BY THE COMMISSIONER, THE EMPLOYER FAILS TO NOTIFY THE OSHA REVIEW BOARD THAT HE INTENDS TO CONTEST THE CITATION, OR PROPOSED ASSESSMENT OF PENALTY, THE CITATION AND THE ASSESSMENT, AS PROPOSED, SHALL BE CONSIDERED FINAL AND NOT SUBJECT TO REVIEW BY ANY COURT.

(B) IF THE COMMISSIONER HAS REASON TO BELIEVE THAT AN EMPLOYER HAS FAILED TO CORRECT, WITHIN THE PERIOD ALLOWED, A VIOLATION FOR WHICH A CITATION HAS BEEN ISSUED, THE COMMISSIONER

18.60.093 DOCUMENT= 1 OF 1 PAGE = 2 OF 3

SHALL NOTIFY THE EMPLOYER BY CERTIFIED MAIL OF THE FAILURE, OF THE PENALTY PROPOSED TO BE ASSESSED BECAUSE OF THE FAILURE, AND THAT THE EMPLOYER HAS 15 WORKING DAYS WITHIN WHICH TO NOTIFY THE COMMISSIONER AND THE OSHA REVIEW BOARD THAT HE WISHES TO CONTEST THE COMMISSIONER'S NOTIFICATION OF THE PROPOSED ASSESSMENT OF PENALTY. IF, WITHIN 15 WORKING DAYS FROM THE RECEIPT OF THE NOTIFICATION ISSUED BY THE COMMISSIONER, THE EMPLOYER FAILS TO GIVE NOTICE THAT HE INTENDS TO CONTEST THE NOTIFICATION OR PROPOSED ASSESSMENT OF PENALTY, THE NOTIFICATION AND ASSESSMENT AS PROPOSED SHALL BE CONSIDERED A FINAL ORDER AND NOT SUBJECT TO REVIEW BY ANY COURT.

(C) IF AN EMPLOYER GIVES NOTICE THAT HE INTENDS TO CONTEST THE CITATION OR NOTIFICATION ISSUED UNDER (A) OR (B) OF THIS SECTION, THE OSHA REVIEW BOARD SHALL AFFORD AN OPPORTUNITY FOR A HEARING AND THEREAFTER ISSUE AN ORDER, BASED ON FINDINGS OF FACT, AFFIRMING, MODIFYING, OR VACATING THE ORIGINAL CITATION OR PROPOSED PENALTY, OR DIRECTING OTHER APPROPRIATE RELIEF, AND THE ORDER IS FINAL 30 DAYS AFTER ITS ISSUANCE.

(D) THE OSHA REVIEW BOARD SHALL NOTIFY THE AUTHORIZED REPRESENTATIVE OF THE AFFECTED EMPLOYEES THAT AN EMPLOYER IS CONTESTING A CITATION OR NOTIFICATION ISSUED UNDER (A) OR (B) OF THIS SECTION AND AFFORD THE REPRESENTATIVE AN OPPORTUNITY TO PARTICIPATE IN THE HEARING ON THE MATTER.

(E) AN EMPLOYER, AN AFFECTED EMPLOYEE OR A REPRESENTATIVE OF AFFECTED EMPLOYEES HAS 15 WORKING DAYS FROM THE RECEIPT OF A CITATION WITHIN WHICH TO NOTIFY THE COMMISSIONER AND THE OSHA REVIEW BOARD THAT THE PERIOD OF TIME FIXED IN THE CITATION FOR THE ABATEMENT OF A VIOLATION IS UNREASONABLE. THE OSHA REVIEW

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BOARD SHALL AFFORD AN OPPORTUNITY FOR A HEARING AND THEREAFTER ISSUE AN ORDER, BASED ON FINDINGS OF FACT, AFFIRMING OR MODIFYING THE ORIGINAL PERIOD FOR ABATEMENT, AND THE ORDER IS FINAL 30 DAYS AFTER ITS ISSUANCE. IF THE CONTEST IS INITIATED BY THE EMPLOYER, THE OSHA REVIEW BOARD SHALL NOTIFY THE EMPLOYER IN THE SAME MANNER AS PROVIDED BY (D) OF THIS SECTION. IF THE CONTEST IS INITIATED BY THE EMPLOYEES, THE OSHA REVIEW BOARD SHALL NOTIFY THE EMPLOYER AND AFFORD THE EMPLOYER AN OPPORTUNITY TO PARTICIPATE IN THE HEARING ON THE MATTER.

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COMMENTS ON SB 263

(Notices for Occupational Safety and Health Violations)

THIS BILL PROVIDES FOR THE DEPARTMENT OF LABOR TO ISSUE A NOTICE OF VIOLATION INSTEAD OF A CITATION FOR NON-SERIOUS OCCUPATIONAL SAFETY AND HEALTH VIOLATIONS IF THE EMPLOYER AGREES TO CORRECT THE VIOLATIONS.

THE NOTICE OF VIOLATION PROCEDURE WOULD BE MUTUALLY ADVANTAGEOUS TO EMPLOYERS AND EMPLOYEES. MONETARY PENALTIES WOULD NOT BE IMPOSED ON EMPLOYERS FOR VIOLATIONS COVERED BY THE NOTICE AND EMPLOYEES WOULD BENEFIT BECAUSE HAZARDS WOULD BE CORRECTED SOONER. UNDER THE PRESENT PROCEDURE, THE EMPLOYER IS NOT OBLIGATED TO CORRECT ALLEGED VIOLATIONS UNTIL THE CITATION IS RECEIVED AND IT PRESENTLY TAKES FIVE TO TEN DAYS AFTER AN INSPECTION TO PROCESS A CITATION. THE NOTICE OF VIOLATION WOULD BE ISSUED BY THE COMPLIANCE OFFICER AT THE END OF AN INSPECTION.

THE PROPOSED PROCEDURE WOULD ALSO INCREASE THE PRODUCTIVITY OF COMPLIANCE STAFF AS THE RESEARCH AND PAPERWORK ASSOCIATED WITH THE ISSUANCE OF A CITATION WOULD NOT BE REQUIRED.

THE NOTICE OF VIOLATION PROCEDURE IS CURRENTLY BEING USED EFFECTIVELY BY THE STATE OF NEVADA AND STATE WASHINGTON.

THE MEASURE WOULD NOT HAVE A FISCAL IMPACT ON THE DEPARTMENT OF LABOR.

SB 263 TITLE & SPONSOR SUMMARY 16:22 6/04/84 PAGE 1 OF 3

SHORTEST TITLE:

AN ACT RELATING TO NOTICES FOR OCCUPATIONAL SAFETY AND HEALTH VIOLATIONS

PRIME SPONSOR: SENATE LABOR&COMM COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 6/22/83 CHAPTER 0026 SLA 83

SB 263 SENATE ACTION 16:22 6/04/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/18/83	01	0728	FIRST READING -- COMMITTEE REPORTS
05/04/83	02	0889	L&C -- DP03
05/04/83	03	0889	L&C F/NOTE EQUALS ZERO
05/13/83	04	0977	RLS -- OTHER04 TAKEN UP IMMEDIATELY
05/13/83	05	0978	SECOND READING
05/13/83	06	0978	ADVANCED TO 3RD READING BY UNAN CONSENT
05/13/83	07	0978	THIRD READING
05/13/83	08	0978	PASSED BY DIV 16-00-04
06/15/83	15	1330	TRANSMITTED TO GOVERNOR
06/22/83	16	1455	SIGNED BY GOVERNOR-CH0026, EFF 09/20/83
****	**	**	*** ** *

SB 263 HOUSE ACTION 16:22 6/04/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/14/83	09	1347	FIRST READING -- COMMITTEE REPORTS
06/01/83	10	1628	L&C -- DP02, NR05
06/13/83	11	1692	SECOND READING
06/13/83	12	1692	ADVANCED TO 3RD READING BY UNAN CONSENT
06/13/83	13	1692	THIRD READING
06/13/83	14	1692	PASSED BY DIV 28-00-04
****	**	**	*** ** *

COMMITTEE REPORT

SENATE

4/15/83

FURTHER:

Date: 5/3/83

Mr. President:

The Committee on Labor & Commerce has had SB 263

Relating to notices for occupational safety and health violations.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" ²⁰⁰ New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Don [Signature]
CHAIRMAN

EXAMPLES OF NON-SERIOUS VIOLATIONS

1. Failure to adopt and post in a conspicuous location at each jobsite office, a code of safe practices and procedures which applies to the firm's operation and embraces applicable safety and health standards.
2. Failure to provide a first aid kit readily available to employees at the worksite, and/or in every vehicle used to transport employees.
3. Failure to provide in the absence of an infirmary, clinic, hospital, or physician which is reasonably accessible in terms of time and distance to the worksite, and is available for the treatment of injured employees, a person who has a valid certificate in first-aid training from the U.S. Bureau of Mines, the American Red Cross, or equivalent training that can be verified by documentary evidence, shall be available at the worksite to render first aid.
4. Failure to conspicuously post the telephone numbers of physicians, hospitals, or ambulances.
5. Failure to assure that in indoor storage areas, oil soaked rags, paint saturated clothing, waste, excelsior and combustible refuse are deposited in noncombustible covered receptacles.
6. Failure to prohibit smoking in indoor general storage areas, except in locations prominently designated as smoking areas; and/or to post "No Smoking" signs in prohibited areas.
7. Failure to keep all places of employment in a clean, orderly and sanitary condition.
8. Failure to assure that portable fire extinguishers are not obstructed or obscured from view; or where visual obstruction cannot be completely avoided, that the location and intended use of extinguishers are conspicuously indicated.
9. Failure to assure that any receptacle used for decayable solid or liquid waste or refuse is so constructed that it does not leak and may be thoroughly cleaned and maintained in a sanitary condition.
10. Failure to provide individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling convenient to the lavatories.

Bill No. Senate Bill 263

Date 4/20/83

Title "An act relating to notices for occupational safety and health violations"

Contact: Judy Knight
465-2700

This bill provides for the Department to issue a notice of violation instead of a citation for non-serious occupational safety and health violations if the employer agrees to correct the violations.

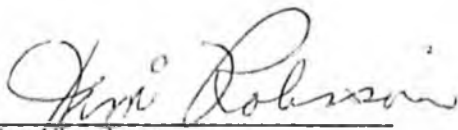
The notice of violation procedure would be mutually advantageous to employers and employees. Monetary penalties would not be imposed on employers for violations covered by the notice and employees would benefit because hazards would be corrected sooner. Under the present procedure, the employer is not obligated to correct alleged violations until the citation is received and it presently takes five to ten days after an inspection to process a citation. The notice of violation would be issued by the compliance officer at the end of an inspection.

The proposed procedure would also increase the productivity of compliance staff as the research and paperwork associated with the issuance of a citation would not be required.

The notice of violation procedure is currently being used effectively by the State of Nevada and State of Washington.

The Department of Labor supports this bill. It would not have a fiscal impact on the Department.

APPROVED


Commissioner
Department of Labor

STATE OF ALASKA
FISCAL NOTE

Revision Date: original, 1983

I. REQUEST

Bill/Resolution No.: Senate Bill 263
 Title: "notices for ... health violations"
 Sponsor: Labor and Commerce Committee
 Requestor: Labor & Commerce Committee

II. FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Worker Protection
 BRU, Program of Subprogram(s) Affected: Occupational Safety & Health Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ^{RB} Robert J. Bacolas, Sr. *RB Bacolas* Phone: 465-4870
 Division: Labor Standards and Safety Date: April 20, 1983
 Approved by Commissioner: ^{RB} Jim Robinson *Jim Robinson* Date: April 20, 1983
 Department: Labor

LEG:A:40

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

INTRODUCTION OF BILLS, (Senate)(cont'd)

Matanuska
Valley Moose
Range

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 225, by Senator Kerttula. (see page 403, original version). Makes slight changes from original version. Seeks to perpetuate multiple use of the area, including grazing (added by this version), hunting, trapping, mineral entry, and other forms of public use of public land not incompatible with the moose range.

Adds language stating that regulations adopted for the Range shall not apply to private land within the described boundaries.

Adds new subsection stating the commissioner of natural resources may acquire in the name of the state, by negotiated purchase only, without an option of first purchase, title or interest in real property lying within the boundaries of the Range.

All other sections remain the same.

Religious
Schools
(regulation)

SENATE BILL NO. 261, by Senators Faiks, Moss and Pettyjohn. See House Bill No. 357, page 530, identical.

Introduced April 18 and referred to Health, Education and Social Services, Judiciary.

Workers' Comp
(death or
disability of
police/fire-
man or emerg.
provider)

SENATE BILL NO. 262, by Senator Josephson. Amends the Alaska Workers' Compensation Act, section relating to presumptions (AS.23.30.120) by adding a new section stating: "(c) If the disability or death of a police officer, firefighter, or emergency medical service provider is caused by a heart or lung disease, including hypertension, there is a rebuttable presumption that the disability or death arose out of or in the course of employment if (1) the disability or death occurs during the actual performance of the duties of employment; (2) the person has been continuously employed as a police officer, firefighter, or emergency medical service provider for three years or more; or (3) the disability or death occurs within a period of time immediately following the termination of employment. (d) In this section 'time immediately following the termination of employment' means a period of time equal to three months for each full year of employment as a police officer, firefighter, or emergency medical service provider not to exceed 60 months."

Does not provide for an effective date (becomes law 90 days after the Governor's signature).

Introduced April 18 and referred to Labor & Commerce.

Prevention of
Accident &
Health Hazards
(notices/
enforcement)

SENATE BILL NO. 263, by the Labor & Commerce Committee. Relates to notices for violations of AS 18.60.010 - 18.60.105 (Prevention of Accident & Health Hazards). Amends AS 18.60.-091(a) (Citations) by addition of language that states: ". . . The department may prescribe procedures for the issuance of a notice instead of a citation with respect to minor violations which have no direct or immediate relationship to safety or health, or violations which are not serious and which the employer agrees to correct within a reasonable time. If an employer does not, within a reasonable time set out in the notice, correct a violation which

SB 263, (cont'd)

is not serious, the department shall issue a citation to the employer." (underlined language added by bill).

Also amends AS 18.60.093(a) (Enforcement Procedures), to read: "If, after an inspection or investigation, or after an employer's failure to correct a violation for which he has been issued a notice, the department issues a citation, the commissioner shall, at a reasonable time after the termination of the inspection or investigation, or expiration of the time period set out in the notice, notify the employer by certified mail of the penalty proposed to be assessed and that the employer has 15 working days within which to notify the commissioner and the OSHA Review Board that he wishes to contest the citation or proposed assessment of penalty. If, within 15 working days after [FROM THE] receipt of the penalty notice issued by the commissioner, the employer fails to notify the OSHA Review Board that he intends to contest the citation, or proposed assessment of penalty, the citation and the assessment, as proposed, are [SHALL BE] considered final and not subject to review by any court." (underlined language added, bracketed language deleted).

Does not provide for an effective date (becomes law 90 days after Governor's approval). Identical to HB 282, page 331.

Introduced April 18 and referred to Labor & Commerce.

Appropriation
(special)
(Anch. airport
terminal)

SENATE BILL NO. 264, by the Transportation Committee. See House Bill No. 321, page 470, identical.

Introduced April 19 and referred to Transportation, Finance.

Cards, Dice &
Number Wheels
(permits for)

SENATE BILL NO. 265, by Senators V. Fischer, Josephson, Faiks, Sturgulewski, Pettyjohn, and P. Fischer. See House Bill No. 360, page 532, identical.

Introduced April 19 and referred to State Affairs, Finance.

Airport
Revenue Bonds
(increasing
bond auth.)

SENATE BILL NO. 266, by the Transportation Committee. See House Bill no. 322, page 470, identical.

Introduced April 19 and referred to State Affairs, Finance.

Prison
Facilities
(location)

SENATE BILL NO. 267, by Rep. Moss. Would require the Commissioner of Health and Social Services to locate all newly constructed maximum security prison facilities that contain 100 or more beds within the vicinity of Anderson and Palmer/Sutton after July 1, 1983. Does not provide for an effective date (becomes law 90 days after Governor's approval).

Note: also see House Bill 217 (page 215), House Bill 275 (page 325), and Senate Bill 224, (page 403). All address the same subject.

Introduced April 19 and referred to Health, Education and Social

Bill Fact Sheet

Date Received 4/18/83

Bill Number SB263 Title OSHA

Fiscal Note - Date Requested 4/19/83 Date Received _____

- Of Whom Judy Knight

Dept. Position Paper - Date Requested 4/19 Date Received _____

- Of Whom Judy Knight

Resource People

Initial Hearing - Date SB263 - Cancelled 5/3
People Contacted

Judy - 2/25

Resa King

Follow-up Hearing - Date _____

Final Action passed out 5/3 Date _____