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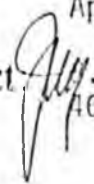
B

517

Bill No. SB 517

Date April 3, 1984

Title "An Act relating to Workers' Compensation; and providing for and effective date"

Contact  J. L. McClintock
465-2790

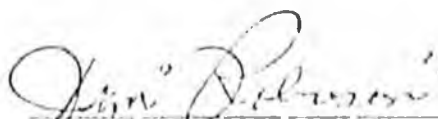
Senate Bill 517 changes the maximum time periods to file physician's notice of treatment, file notice of controversion and pay compensation benefits to injured workers. The purpose of the legislation is to bring into conformity these time periods to enable the employer/insurer to make more informed and expeditious determinations on workers' compensation claims.

Currently, the employer has a maximum time period of 28 days to pay compensation, but only 14 days to controvert (deny) a claim. A further conflict in making a determination to either pay or deny is the time period of 20 days for the physician to file notice of treatment verifying that the injury is work connected and that the worker is unable to work. This leaves little or no time for the employer/insurer to make an informed decision to accept or deny the claim. As a result, many employer/insurers controvert claims which unnecessarily delays payment of compensation for a longer period than the additional 7 days proposed under this legislation to investigate the claim.

This legislation will require the physician to file the medical report within 14 days instead of 20. The time period to file a controversion will be extended to 21 days instead of 14 and the maximum time to pay compensation will be shortened from 28 to 21 days. In other words, the physician must file the medical report within 14 days and the insurer must either pay or controvert the claim within 21 days.

The Department of Labor supports passage of Senate Bill 517. It will not have a fiscal impact on the Department.

APPROVED



Jim Robison
Commissioner

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. The bill brings into harmony the periods of time allowed for several related acts, and should result in a system in which claims are handled more efficiently.

Under current law, an employer has 28 days to pay a compensation claim but only 14 days in which to controvert it. Ideally, the decision to pay a claim should be made after receipt of a physician's notice which verifies that the worker's injury is in fact work-related and that the worker is disabled. Under current law, however, a physician has 20 days to file the notice. This often results in employers controverting claims needlessly, and payments thus being unduly delayed.

The proposed legislation would require a physician's notice to be filed within 14 days of treatment instead of 20, would allow an employer 21 days instead of 14 to controvert a claim, and would shorten the time for payment from 28 to 21 days. These changes would enable an employer to make an informed decision on whether to pay or controvert a worker's compensation claim; they thus inure to the benefit of employers, workers, and insurers.

Summary (Gov. was originally planning to introduce)

Sincerely,

Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB 517
 Title: "An Act relating to Workers' Compensation; and providing. . ."
 Sponsor: Labor and Commerce
 Requestor: Senate Labor & Commerce
 Date of Request: 4/17/84

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 |
|------------------------|----------|----------|----------|----------|----------|----------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 SUPPLIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|---|---|---|---|---|---|
| GENERAL FUND | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: ^{MB} Jacquelyn McClintock Phone: 465-2790
 Division: Workers' Compensation Date: 4/18/84

Approved by Commissioner: ^{MB} Jim Robison Date: 4/18/84
 Agency: Department of Labor

LEG:A:45

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Section-By-Section Analysis

Section 1. This section requires the physician rendering treatment to file a medical report within 14 days following treatment instead of 20 days.

Section 2. This section extends the maximum time period for an employer to file a controversion from 14 days to 21 days from date of knowledge of the alleged injury or death, or, if payments have begun, within 7 days after an installment or compensation payable without an award is due.

Section 3. This section shortens the maximum time period for an employer to pay compensation to an injured worker from 28 days to 21 days.

Section 4. Provides for an effective date of July 1, 1984.

CSSB 517 (L & C)

COMMITTEE SUBSTITUTE FOR SB 517 (L & C) WILL RECTIFY MANY OF THE INCOMPATIBLE AND INCONSISTENT TIME PERIODS PRESENTLY EXISTING IN THE WORKER'S COMPENSATION ACT. CURRENTLY, AN EMPLOYER HAS A MAXIMUM TIME PERIOD OF 28 DAYS TO PAY COMPENSATION, BUT ONLY 14 DAYS TO DENY A CLAIM. A FURTHER CONFLICT IN MAKING A DETERMINATION TO EITHER PAY OR DENY IS THE TIME PERIOD FOR THE PHYSICIAN TO FILE NOTICE. AS A RESULT, MANY EMPLOYER/INSURERS DENY CLAIMS WHICH UNNECESSARILY DELAYS PAYMENT OF COMPENSATION.

THIS LEGISLATION WILL REQUIRE THE PHYSICIAN TO FILE THE MEDICAL REPORT WITHIN 14 DAYS INSTEAD OF 20. THE TIME PERIOD TO DENY A CLAIM WILL BE EXTENDED TO 21 DAYS INSTEAD OF 14 AND THE MAXIMUM TIME TO PAY COMPENSATION WILL BE SHORTENED FROM 28 TO 21 DAYS. IN OTHER WORDS, THE PHYSICIAN MUST FILE THE MEDICAL REPORT WITHIN 14 DAYS AND THE INSURER MUST EITHER PAY OR CONTROVERT THE CLAIM WITHIN 21 DAYS.

SECTION 2 WAS ADDED TO SB 517 IN THE LABOR AND COMMERCE COMMITTEE. THIS ADDITION WOULD ALLOW AN ADDITIONAL 14-DAY "GRACE PERIOD" FOR THE FILING OF VARIOUS REPORTS WITH THE WORKER'S COMPENSATION BOARD. PRESENTLY, THE TIME FRAME FOR FILING THESE REPORTS IS NOT COMPATIBLE WITH THE PRACTICES OF MANY INSURERS AND ADJUSTERS. THIS NEW LANGUAGE WILL RESOLVE THESE EXISTING PROBLEMS.

CSSB 517 (L & C) HAS THE SUPPORT OF THE AD HOC COMMITTEE ON WORKERS'S COMPENSATION, DEPARTMENT OF LABOR AND REPRESENTATIVES OF THE INSURANCE INDUSTRY AND MEDICAL COMMUNITY. I URGE ~~YOUR~~ SUPPORT FOR THIS VERY WORTHWHILE LEGISLATION.

PASSAGE . .

ADDITIONAL INFORMATION

CURRENTLY

CSSB 517(L & C)

28 DAYS TO PAY COMPENSATION

21 DAYS TO PAY
COMPENSATION

14 DAYS TO PAY COMPENSATION

21 DAYS TO CONTROVERT
CLAIM

20 DAYS FOR PHYSICIAN'S
REPORT

14 DAYS FOR PHYSICIAN'S
REPORT

14 DAYS TO REPORT TO WORKER'S
COMPENSATION BOARD *

28 DAYS TO REPORT TO
WORKER'S COMPENSATION
BOARD

* THIS INCREASE IN THE "GRACE PERIOD" DOES NOT AFFECT THE TIME PERIODS FOR WHICH COMPENSATION MUST BE PAID TO INJURED WORKERS.

THE PENALTY LISTED IN SECTION 2 IS ALREADY IN EXISTING LAW.

PROPOSED TITLE: HCSSSB 517(L&C)
BRIEF ACT RELATING TO WORKERS' COMPENSATION, AND PROVIDING
FOR AN EFFECTIVE DATE
PRINCIPAL SPONSOR: SENATE LABOR&COMM COMMITTEE.
CO-SPONSORS:

CURRENT STATUS: 5/28/84 TRANSM TO GOVERNOR

| DATE | SEQ | PAGE | LEGISLATIVE ACTION |
|----------|-----|------|--|
| 03/01/84 | 01 | 2227 | FIRST READING -- COMMITTEE REPORTS |
| 04/05/84 | 02 | 2646 | HESS -- DF03 |
| 04/05/84 | 03 | 2646 | HESS F/NOTE EQUALS ZERO |
| 04/16/84 | 04 | 2760 | L&C -- CS04 |
| 04/27/84 | 05 | 2853 | RLS -- L&C CS04, OTHER04 TAKEN UP IMMEDIATELY |
| 04/27/84 | 06 | 2857 | SECOND READING |
| 04/27/84 | 07 | 2857 | L&C CS ADOPTED BY UNAN CONSENT |
| 04/27/84 | 08 | 2858 | ADVANCED TO 3RD READING BY UNAN CONSENT |
| 04/27/84 | 09 | 2858 | THIRD READING |
| 04/27/84 | 10 | 2858 | PASSED BY DIV 20-00-00 |
| 04/27/84 | 11 | 2858 | EFFECTIVE DATE VOTE SAME AS PASSAGE |
| 05/26/84 | 24 | 3294 | CONCURRED IN HOUSE AMS BY DIV 18-00-00 |
| 05/26/84 | 25 | 3295 | EFF DATE VOTE SAME UNAN CONSENT |
| 05/28/84 | 26 | 3331 | TRANSMITTED TO GOVERNOR |
| *** | ** | ** | *** *** ** |

| DATE | SEQ | PAGE | LEGISLATIVE ACTION |
|----------|-----|------|---|
| 04/30/84 | 12 | 3509 | FIRST READING -- COMMITTEE REPORTS |
| 05/16/84 | 13 | 3870 | L&C -- CS05, NR01 |
| 05/16/84 | 14 | 3870 | L&C F/NOTE EQUALS ZERO |
| 05/24/84 | 15 | 4016 | SECOND READING |
| 05/24/84 | 16 | 4016 | L&C CS ADOPTED BY UNAN CONSENT |
| 05/24/84 | 17 | 4016 | ADVANCED TO 3RD READING BY UNAN CONSENT |
| 05/24/84 | 18 | 4016 | THIRD READING |
| 05/24/84 | 19 | 4016 | PASSED BY DIV 23-12-05 |
| 05/24/84 | 20 | 4017 | EFFECTIVE DATE FAILED BY DIV 23-14-03 |
| 05/24/84 | 21 | 4017 | NOTICE OF RECONSIDERATION GIVEN |
| 05/25/84 | 22 | 4035 | PASSED ON RECONSIDERATION BY DIV 30-01-01 |
| 05/25/84 | 23 | 4035 | EFFECTIVE DATE VOTE SAME AS PASSAGE |
| *** | ** | ** | *** *** ** |

COMMITTEE REPORT

SENATE

FURTHER:

4/5/84

Date 4/17/84

Mr. President

The Committee on LABOR & COMMERCE considered SB 517

workers' compensation; and

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 517 (LFC)
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]

[Signature]
Chairman

[Signature]
Chairman recommendation

William F. Reeves
3201 Spenard Road
Anchorage, Alaska 99503
PHONE: 561-5354

April 6, 1984

Senator Richard I. Eliason, Chairman
Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Attn: Sheila Peterson

RE: SB 517

Dear Senator Eliason:

As a participant in the Labor/Management Ad Hoc Committee on Workers' Compensation, I am writing this letter in support of SB 517 and the proposed amendment to SB 517 which is attached hereto.

The Labor/Management Ad Hoc Committee on Workers' Compensation in Alaska was formed rather spontaneously approximately two years ago. Its purpose has been to review and analyze the Alaska workers' compensation system in a forum outside the political arena. The perspective of the ad hoc committee continues to be the "workability" of the workers' compensation system in Alaska.

SB 517 rectified many of the incompatible and inconsistent time periods presently existing in the Workers' Compensation Act. The ad hoc committee, the Division of Workers' Compensation, and representatives of the insurance industry and medical community have discussed this bill and no objections have been raised.

These same participants discussed the attached proposed amendment to SB 517. The attached proposed amendment resolves a series of administrative problems within the act. In essence, the amendment would allow an additional 14-day "grace period" for the filing of various reports with the Workers' Compensation Board. Presently, the time frame for filing these reports is not compatible with the practices of many insurers and adjusters. It is believed that the proposed amendment will resolve most of the existing problems.

It should be noted that the time periods extended by this proposed amendment do not extend the time periods for which compensation must be paid to injured workers.

Senator Richard I. Eliason
April 6, 1984
Page Two

If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

ALASKA CHAPTER
ASSOCIATED GENERAL CONTRACTORS



William F. Reeves
General Counsel

Enclosure

WFR/ec/15

cc: John Abshire, Alaska Ironworkers, Local 751
Kevin Dourghty, Alaska State District Council of Laborers
Joe Surler, Operating Engineers
Robert Erickson, Teamsters Local 959
Richard Cattanach, Unit Company
Jack Thompson, Vice President, Air Van Lines, Inc.
Dwayne Taylor, Frontier Companies
Jim Robison, Commissioner of Labor
Jackie McClintock, Director, Workers Compensation
Tom O'Keefe, Industrial Indemnity
Richard Block, Alaska National Insurance

SB 517 - AN ACT RELATING TO WORKERS' COMPENSATION

PROPOSED AMENDMENT TO AS 23.30.155(c):

The employer shall notify the board and the employee on a form prescribed by the board that the payment of compensation has begun or has been increased, decreased, suspended, terminated, resumed or changed in type. An initial report shall be filed within 28 days after the date of issuing the first payment of compensation. If at any time 21 days or more pass and no compensation payment is issued, a report shall be filed within 28 days after the date the last compensation payment was issued as benefits have been suspended or terminated. A report shall also be filed within 28 days after the date of issuing a payment increasing, decreasing, resuming or changing the type of compensation paid. If the employer fails to notify the board and the employee within the prescribed 28 days, the employer shall pay a civil penalty of \$100 for the first day plus \$10 for each day thereafter that the employer failed to give notice. Total penalties under this section may not exceed \$1,000 for each failure to file a required report.

Amendment

ALASKA STATE SENATE

PATRICK RODEY
SENATOR

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3793
(907) 475-3754



Senator Dick Eliason, Chair
Senate Labor & Commerce Committee
Capitol Building Room 417
Juneau, Alaska

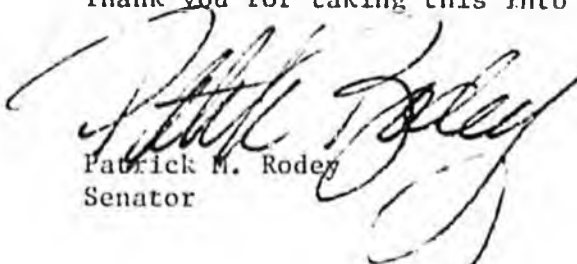
March 5, 1984

Dear Dick:

I would like to request that the Senate Labor & Commerce Committee introduce a proposed draft of the attached worker's compensation bill. I would be happy to sponsor this legislation but as you know the deadline for individual sponsors has passed.

Please keep this letter on file as proof that I specifically requested this legislation to be introduced through the committee.

Thank you for taking this into consideration.


Patrick M. Rodey
Senator

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 29, 1984

SUBJECT: Sectional analysis of Work Order 13-1907

TO: Senator Dick Eliason
Chairman, Senate Labor & Commerce

FROM: Thomas A. Sofo *TAS*
Legislative Counsel

You have asked for a sectional analysis of Work Order 13-1907, a bill draft which makes amendments to the workers compensation law.

Section 1 This section merely decreases from 20 to 14 days the time within which a doctor or employee must notify the workers compensation board of the giving or receiving of medical treatment. Section 1 also standardizes the 14 day notice time limit for the first and subsequent medical treatments.

Section 2 Increases from 14 to 21 days the time within which the employer must file with the board a notice of controversion if the employer wishes to contest the right of the employee to workers compensation. The same section allows for the employer to also file a notice of controversion within seven days after a payment of compensation is due even after the employer has already begun the payment of compensation.

Section 3 Decreases from 14 to 7 days the time after which a 20 percent penalty is to be added to an unpaid installment of compensation.

Section 4 Immediate effective date.

TAS:ojb
J4/026

William F. Reeves
3201 Spenard Road
Anchorage, Alaska 99503
PHONE: 561-5354

April 6, 1984

Senator Richard I. Eliason, Chairman
Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Attn: Sheila Peterson

RE: SB 517

Dear Senator Eliason:

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The Labor/Management Ad Hoc Committee on Workers' Compensation in Alaska was formed rather spontaneously approximately two years ago. Its purpose has been to review and analyze the Alaska workers' compensation system in a forum outside the political arena. The perspective of the Ad Hoc Committee continues to be the "workability" of the workers' compensation system in Alaska.

SB 517 rectified many of the incompatible and inconsistent time periods presently existing in the Workers' Compensation Act. The Ad Hoc Committee, the Division of Workers' Compensation, and representatives of the insurance industry and medical community have discussed this bill and no objections have been raised.

These same participants discussed the attached proposed amendment to SB 517. The attached proposed amendment resolves a series of administrative problems within the act. In essence, the amendment would allow an additional 14-day "grace period" for the filing of various reports with the Workers' Compensation Board. Presently, the time frame for filing these reports is not compatible with the practices of many insurers and adjusters. It is believed that the proposed amendment will resolve most of the existing problems.

It should be noted that the time periods extended by this proposed amendment do not extend the time periods for which compensation must be paid to injured workers.

Letter of Support - Suggest Amendment

Senator Richard I. Eliason
April 6, 1984
Page Two

If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

ALASKA CHAPTER
ASSOCIATED GENERAL CONTRACTORS

Wm. F. Reeves/RK.

William F. Reeves
General Counsel

Enclosure

WFR/ee/15

cc: John Abshire, Alaska Ironworkers, Local 751
Kevin Doughty, Alaska State District Council of Laborers
Joe Butler, Operating Engineers
Robert Erickson, Teamsters Local 959
Richard Cattanach, Unit Company
Jack Thompson, Vice President, Air Van Lines, Inc.
Dwayne Taylor, Frontier Companies
Jim Robison, Commissioner of Labor
Jackie McClintock, Director, Workers' Compensation
Tom O'Keefe, Industrial Indemnity
Richard Block, Alaska National Insurance

Currently

28 days to pay compensation
14 days to controvert (deny)
20 days for physician's report

Now

21 days to pay
21 days to controvert (deny)
14 days for physician's report

(d) If an employer fails to comply with a compensation order making an award that has become final, a beneficiary of the award or the board may apply for the enforcement of the order to the superior court. If the court determines that the order was made and served in accordance with law, and that the employer or his officers or agents have failed to comply with it, the court shall enforce obedience to the order by writ of injunction or by other proper process to enjoin upon the employer and his officers and agents compliance with the order.

(e) Proceedings for suspending, setting aside, or enforcing a compensation order, whether rejecting a claim or making an award, may not be instituted except as provided in this section and AS 23.30.170. (§ 20 ch 193 SLA 1959; am § 1 ch 32 SLA 1965; am § 27 ch 93 SLA 1982)

Effect of amendments. — The 1982 amendment repealed subsection (b).

NOTES TO DECISIONS

III. STANDARD OF REVIEW.

And findings of board, etc.
In accord with 12th paragraph in

original. See Parker Drilling Co. v. Wester, Sup. Ct. Op. No. 2565 (File No. 5759), 651 P.2d 842 (1982).

Sec. 23.30.145. Attorney fees.

NOTES TO DECISIONS

Subsection (a) award applies only, etc.

Where the board awarded employee's attorney's fees on all compensation in excess of \$6,000, the amount tendered by the employer as a permanent partial disability award, the \$6,000 voluntarily tendered by the employer was not "in controversy" despite the fact that the employer disputed the disability classification, since this section unambiguously restricts the award of attorney's fees to

amounts which are controverted. Bignell v. Wise Mechanical Contractors, Sup. Ct. Op. No. 2566 (File No. 5929), P.2d (1982).

Award to employer-defendant. — Appellate court grant of attorneys' fees to an employer-defendant must be based on finding that claimant's appeal was frivolous, unreasonable, or brought in bad faith. Whaley v. Alaska Workers' Compensation Bd., Sup. Ct. Op. No. 2533 (File No. 5701), 648 P.2d 955 (1982).

Article 4. Payment of Compensation.

Section

- 155. Payment of compensation
- 160. Assignment and exemption from claims of creditors

Sec. 23.30.155. Payment of compensation. (a) Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled to it, without an award, except where liability to

pay compensation is controverted by the employer. To controvert a claim the employer must file a notice, on a form prescribed by the board, stating

- (1) that the right of the employee to compensation is controverted;
- (2) the name of the employee;
- (3) the name of the employer;
- (4) the date of the alleged injury or death; and
- (5) the type of compensation and all grounds upon which the right to compensation is controverted.

(b) The first installment of compensation becomes due on the 14th day after the employer has knowledge of the injury or death. On this date all compensation then due shall be paid. Subsequent compensation shall be paid in installments, every 14 days, except where the board determines that payment in installments should be made monthly or at some other period.

(c) [Effective January 1, 1984] Upon making the first payment, and upon an increase, reduction, termination, suspension, resumption or a change in rate or type of compensation paid, the employer shall notify the board within 14 days, on a form prescribed by the board, that payment of compensation has begun or has been increased, reduced, terminated, resumed, changed, or suspended, as the case may be. If the employer fails to notify the board within 14 days, the board shall assess against the employer a civil penalty of \$100 plus \$10 for each day in excess of 14 days that the employer fails to give notice. Total penalties under this section may not exceed \$1,000 for each failure to file a required report.

(d) If the employer controverts the right to compensation he shall file with the board on or before the 14th day after he has knowledge of the alleged injury or death or on or before an installment of compensation payable without an award is due, a notice of controversion on a form prescribed by the board.

(e) If any installment of compensation payable without an award is not paid within 14 days after it becomes due, provided in (b) of this section, there shall be added to the unpaid installment an amount equal to 20 percent of it, which shall be paid at the same time as, and in addition to, the installment, unless notice is filed under (d) of this section or unless the nonpayment is excused by the board after a showing by the employer that owing to conditions over which he had no control the installment could not be paid within the period prescribed for the payment.

(f) If compensation payable under the terms of an award is not paid within 14 days after it becomes due, there shall be added to that unpaid compensation an amount equal to 20 percent of it, which shall be paid at the same time as, but in addition to, the compensation, unless review of the compensation order making the award is had as provided in AS 23.30.125 and an interlocutory injunction staying payments is allowed by the court.

Re: Amendment