

HB

53

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/25/87

FURTHER REFERRALS:

DATE: 3-10-87

The Finance Committee has considered HB 53

"An Act relating to penalties for violation of workplace safety laws."

RECOMMENDS:

- replace with CS HB 53 (JUDICIARY) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 1/30/87
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

ADAMS [Signature]

SWACK [Signature]

GOLL [Signature]

BROWN [Signature]

DAVIS [Signature]

SIGNING OTHER RECOMMENDATIONS:

Pourchot [Signature] no rec

LARSON [Signature] No Rec.

BOYER [Signature] -NO rec.

RIEGER [Signature] No Recommendation

FRANK [Signature] no Rec.

[Signature]

Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSHB 53 (Jud)

Publish Date : _____

Revision Date: _____

Agency Affected: Labor

Title: "An Act relating to penalties for violation of workplace safety laws"

BRU: Occupational Safety and Health

Sponsor: Koponen and Goll

Components: Occupational Safety and Health

Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|------------------------|----------|-------------|-------------|----------|----------|----------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | 3.2 | 1.7 | | | |
| CONTRACTUAL | | 60.0 | 27.5 | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 63.2 | 29.2 | 0 | 0 | 0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|---|-------|-------|------|------|------|
| REVENUE | 0 | 242.9 | 132.0 | 91.1 | 91.1 | 91.1 |
|---------|---|-------|-------|------|------|------|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|----------|-------------|-------------|----------|----------|----------|
| GENERAL FUND | | 31.6 | 14.6 | | | |
| FEDERAL FUNDS | | 31.6 | 14.6 | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 63.2 | 29.2 | 0 | 0 | 0 |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

(see attached)

Prepared by: AS Tom Stuart, Director *AS Stuart* Phone: 465-4870

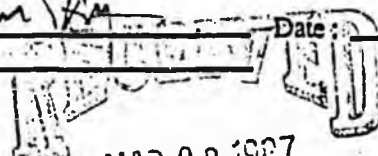
Division: Labor Standards and Safety Date: 02/24/87

Approved by Commissioner: AS Jim Sampson *AS Sampson* Date: 02/24/87

Agency: Labor

Distribution (by preparer):

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



LEGISLATIVE FINANCE

CSHB 53 (Jud)

Fiscal Note Analysis
For Committee Substitute for House Bill 53 (JUD)

Committee Substitute for House Bill 53 increases penalties for violations of workplace safety and health laws and is viewed as an effective deterrent to such violations. However, it is anticipated that a two-year period will be required for the deterrent effects of the increased penalties to be fully realized. Until the deterrent effect is fully realized, it is projected that the increased penalties will result in increased contests which will temporarily result in increased expenditures. Likewise, it is expected that revenues from penalties will initially increase and then decline as the deterrent effect materializes.

The increased costs are:

Contractual:

In FY 88 an additional \$45,000 will be required for legal costs for services provided by the Department of Law in connection with contested citations, and collection of penalties. This amount will decrease in FY 89 as the increased deterrent effect of the increased penalties is realized, and by FY 90, contests will have returned to present levels.

In FY 88, an additional \$10,000 in hearing officer costs will also be incurred for the OSHA Review Board which decides contested cases. As with the Department of Law costs, this fiscal note anticipates a decline in the caseload in FY 89, and a return to present levels in FY 90.

A one-time cost of \$5,000 is also included for mailing a notice to all employers in the state to inform them of the increased penalties.

Travel:

In FY 88, an additional \$3,200 in per diem costs will be incurred for the three-member OSHA Review Board which decides contested cases. The Board will meet an additional 8 days to hear the additional cases. These costs would likewise decrease in FY 89 and dissipate in FY 90.

Following are the specific workload assumptions used in projecting costs and revenues:

1. Increased penalties will take effect July 1, 1987;
2. In FY 88, there will be a 25% reduction in the number of serious violations and the number of serious citations. In FY 89 and FY 90, there will be further reductions of 35% and 20%, respectively. After FY 90, further reductions are not anticipated.

| | <u>FY 87</u> | <u>FY 88</u> | <u>FY 89</u> | <u>FY 90</u> |
|------------------------------|--------------|--------------|--------------|--------------|
| Number of Serious violations | 250 | 190 | 125 | 100 |
| Number of Serious citations | 165 | 125 | 80 | 65 |

(Serious citations average 1½ serious violations each. Therefore, the number of citations issued is less than the number of serious violations.)

3. 40% of the Serious citations issued by the Department will be contested. (This is the present contest rate for citations with penalties of \$500 or more.)

| | <u>FY 87</u> | <u>FY 88</u> | <u>FY 89</u> | <u>FY 90</u> |
|-------------------------------|--------------|--------------|--------------|--------------|
| Number of Contested citations | 25 | 50 | 32 | 25 |

Additional Revenues:

The increased revenues are projected upon increases in penalties as follows:

| Type of of Violation | FY 87 | | FY 88 | | FY 89 | | FY 90 | |
|---|------------|------------|------------|-------------|------------|------------|------------|------------|
| | Violations | Penalties | Violations | Penalties | Violations | Penalties | Violations | Penalties |
| Repeat | 30 | \$10,700 | 20 | \$71,400 | 10 | \$35,700 | 5 | \$17,850 |
| Serious | 250 | 45,000 | 190 | 342,000 | 125 | 225,000 | 100 | 180,000 |
| Failure to Abate | 1 | 300 | 1 | 3,000 | 0 | 0 | 0 | 0 |
| Willful | 0 | 0 | 1 | 15,000 | 0 | 0 | 0 | 0 |
| Proposed Penalties | | \$56,000 | | \$431,400 | | \$260,700 | | \$197,850 |
| Less penalty reduction as a result of negotiated settlements and uncollect- ible penalties | | (\$18,480) | | (\$151,000) | | (\$91,200) | | (\$69,200) |
| Less Current Revenues | | (37,520) | | (37,520) | | (37,520) | | (37,520) |
| Additional Revenues | | 0 | | \$242,880 | | \$131,980 | | \$91,130 |

ALASKA STATE CHAMBER OF COMMERCE

TESTIMONY REGARDING HB 53
HOUSE FINANCE COMMITTEE
MARCH 10, 1987

MR. CHAIRMAN, MY NAME IS GEORGE KRUSZ. I AM PRESIDENT OF THE ALASKA STATE CHAMBER OF COMMERCE, ALASKA'S LARGEST BUSINESS FEDERATION WITH APPROXIMATELY 1000 MEMBERS IN ALASKA AND THE LOWER 48.

OUR OPPOSITION TO HB 53 IS BASED ON THE SIMPLE PREMISE THAT IT IS AN UNNECESSARY PIECE OF LEGISLATION, PARTICULARLY IN TIMES OF ECONOMIC DIFFICULTY. THE MESSAGE PASSAGE OF HB 53 WOULD SEND TO A STRUGGLING BUSINESS COMMUNITY IS THAT THE STATE IS MORE INTERESTED IN MAKING IT DIFFICULT TO REMAIN IN BUSINESS RATHER THAN DOING EVERYTHING POSSIBLE TO ENCOURAGE BUSINESS DEVELOPMENT.

LET ME GIVE AN EXAMPLE. ACCORDING TO THE ALASKA CHAPTER OF THE ASSOCIATED GENERAL CONTRACTORS, FROM OCTOBER OF 1985 TO DECEMBER 1986, THE HIGHEST PENALTY ASSESSED FOR A "SERIOUS" VIOLATION WAS \$800, APPARENTLY FOR A HARD HAT VIOLATION. BY INCREASING THE MAXIMUM PENALTY TO \$10,000 FROM EXISTING \$1,000, THE POTENTIAL PENALTY FOR THE SAME HARD HAT VIOLATION WOULD INCREASE TO \$8,000, A RATHER SERIOUS SUM.

MR. CHAIRMAN, FROM THE STATISTICS I HAVE SEEN, THERE HARDLY SEEMS TO BE AN EPIDEMIC OF SAFETY VIOLATIONS. IF THERE WERE, I'M CERTAIN WE WOULD FEEL DIFFERENTLY ABOUT THIS LEGISLATION. HOWEVER, THERE MAY BE JUSTIFICATION FOR MODEST INFLATIONARY INCREASES IN VIEW OF THE LENGTH OF TIME SINCE THE EXISTING LEGISLATION WAS ADOPTED.

I ALSO WISH TO ADDRESS A CONCEPT EXPRESSED DURING EARLIER HEARINGS ON THIS BILL -- THAT INCREASING PENALTIES WOULD SERVE AS A DETERENT TO BUSINESSES THAT SLACK SAFETY STANDARDS AS A MEANS OF CUTTING COSTS DURING TOUGH TIMES. IN THE FIRST PLACE, I KNOW OF NO BUSINESSMAN WHO WOULD EVER THINK OF SUCH A STRATEGY. SECONDLY, EVEN IF HE DID, THE POTENTIAL COST INCREASE OF LIABILITY INSURANCE SUCH A STRATEGY WOULD BRING ABOUT WOULD CERTAINLY CAUSE THE PERSON NOT TO CUT COSTS IN SUCH A MANNER.

IN CLOSING, MR. CHAIRMAN, I WISH TO CALL TO THE COMMITTEE'S ATTENTION THAT THE COST TO EMPLOYERS OF WORKER'S COMPENSATION HAS RISEN AN AVERAGE OF 14% THIS YEAR, FOR THE CONSTRUCTION INDUSTRY THE INCREASE IS 25-30%. THIS APPARENTLY IS UNAVOIDABLE.

HB 53 HAS THE POTENTIAL ALSO OF INCREASING COSTS FOR VIRTUALLY EVERY BUSINESS IN THE STATE. WE FEEL THAT IN VIEW OF OUR STATE'S PRIVATE SECTOR SAFETY STANDARDS RECORD, THERE IS NO JUSTIFICATION FOR INCREASING PENALTIES TO THE DEGREE PROPOSED IN HB 53.

THANK YOU.

March 10, 1987

House Finance Committee

Testimony

HB 53 - Relating to violations of workplace safety laws.

THANK YOU MR. CHAIRMAN, FOR THE RECORD, I AM RESA JERREL, I REPRESENT THE ALASKA CHAPTER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA (A.G.C.) AND OUR APPROXIMATE 700 MEMBER FIRMS.

WHILE AGC-ALASKA IS A STRONG ADVOCATE FOR SAFETY IN THE WORK-PLACE WE ARE HERE TODAY TO TESTIFY IN OPPOSITION TO HB 53 FOR THE FOLLOWING REASONS.

1. THE MAXIMUM PENALTY ASSESSED IN A 15 MONTH PERIOD (OCTOBER 1, 1985 TO JANUARY 31, 1987) ON A CONSTRUCTION FIRM WAS \$800. THIS DEMONSTRATES AN UNDERUTILIZATION OF THE EXISTING FINE STRUCTURE - NOT A NEED FOR HIGHER FINES. BY THE WAY, THIS \$800.00 PENALTY WAS FOR A VIOLATION OF THE SAFETY STANDARD THAT STATES: "EMPLOYEES WORKING IN AREAS WHERE THERE IS A DANGER OF HEAD INJURY FROM IMPACT, OR FROM FALLING OR FLYING OBJECTS, FROM ELECTRICAL SHOCK AND BURNS, SHALL BE PROTECTED BY PROTECTIVE HELMETS" - HARD HATS.
2. ACCORDING TO THE DIVISION OF OCCUPATIONAL LICENSING "DIRECTORY OF LICENSED CONTRACTORS

- GENERAL AND SPECIALTY" THERE IS A TOTAL OF 7,571 LICENSED CONTRACTORS IN THE STATE. ACCORDING TO A COMPUTER RUN, FROM THE DEPARTMENT OF LABOR, OF SERIOUS PENALTIES IMPOSED ON CONTRACTORS FROM OCTOBER 1, 1985 TO JANUARY 31, 1987 (15 MONTHS) THERE WAS A TOTAL OF 260 PENALTIES IMPOSED --- THERE WERE NO \$1,000 PENALTIES --- AND THE HIGHEST PENALTY WAS THE \$800.00 PENALTY I MENTIONED IN NUMBER ONE, ABOVE, FOR THE HELMET OR HARD HAT VIOLATION.

3. INADVERTENCE OR CARELESSNESS BY EMPLOYEES ARE MAJOR CAUSES OF ACCIDENTS IN THE CONSTRUCTION INDUSTRY, YET IT IS ONLY THE EMPLOYER THAT IS CITED FOR THE VIOLATIONS. INCREASING THE PENALTIES WILL NOT ACT AS A DETERRENT TO EMPLOYEES UNAFFECTED BY THE HIGHER FINES.
4. IN MOST CASES, THE FINE LEVEL PROPOSED IS HIGHER THAN ANY OTHER STATE'S.
5. THERE IS NO EVIDENCE INDICATING THAT HIGHER OSHA FINES BRING ABOUT FEWER ON THE JOB INJURIES.

IN CLOSING, MR. CHAIRMAN, WE BELIEVE THE PROPOSED PENALTIES ARE EXCESSIVE. UNDER CURRENT LAW THE DEPARTMENT HAS THE AUTHORITY FOR HIGHER PENALTIES --- AND EVEN HIGHER PENALTIES IN THE CASE OF REPEAT AND WILLFUL VIOLATIONS. ADDITIONALLY,

THEY HAVE A VERY EFFECTIVE TOOL TO CONTROL WORKPALCE SAFETY, THIS IS THEIR ABILITY TO SHUT DOWN A JOB SITE, WHERE THERE IS AN IMMINENT DANGER. A SHUT DOWN OF A JOB SITE IS EXTREMELY EXPENSIVE.

WE BELIEVE THIS LEGISLATION SHOULD BE CLOSELY SCRUTINIZED AND THE FOLLOWING QUESTIONS SHOULD BE ANSWERED ABOUT THIS LEGISLATION:

- IS THERE ANY PROOF THAT RAISING THE PENALTIES IS A DETERRENT TO VIOLATIONS AND INCREASES SAFETY IN THE WORKPLACE?
- HOW DO THE PROPOSED PENALTIES COMPARE WITH PENALTIES OF OTHER STATES?
- HAS ANY STATE RAISED THEIR PENALTIES TO A COMPARABLE AMOUNT?

HAS THIS BEEN A DETERRENT TO VIOLATIONS OF WORKPLACE SAFETY LAWS?

HAS THAT STATE EXPERIENCED AN INCREASE IN APPEALS OF THE PENALTIES? IF SO, BY HOW MUCH?

THANK YOU, MR. CHAIRMAN, FOR YOUR TIME AND ATTENTION.

Bill No. Committee Substitute for
House Bill No. 53 (Judiciary)

Date February 26, 1987

Title "An Act relating to violations
of workplace safety laws."

Contact: Eileen Plate
465-2700

Richard Arab
465-4856

Under Committee Substitute for House Bill 53, the penalties assessed by the Department of Labor for violations of Alaska's Occupational Safety and Health law and regulations would be increased.

Specifically, the provisions of this bill:

- (1) increase the maximum penalty for a willful or repeat violation from \$10,000 to \$25,000;
- (2) establish a \$1000 minimum penalty for a serious violation; and increase the maximum penalty for a serious or failure to abate violation from \$1,000 to \$10,000;
- (3) increase the maximum penalty for a non-serious violation from \$1,000 to \$5,000;
- (4) increase the maximum penalty for a willful or repeat violation which results in the death of a worker from \$10,000 to \$150,000; and increase from \$20,000 to \$500,000 the maximum penalty for a second conviction of a willful or repeat violation causing death;
- (5) increase from \$10,000 to \$25,000 the maximum penalty for falsifying or otherwise misrepresenting occupational safety and health records or documents; and
- (6) increase the maximum penalty for a violation of occupational safety and health posting requirements from \$1,000 to \$2,000.

The penalties in effect have not been increased since Alaska's occupational safety and health law was initially enacted in 1973.

More important than providing for an overdue inflationary increase in the penalty system, however, the increased penalties would serve as an effective deterrent to workplace safety and health violations. This, of course, will translate into safer workplaces, and a reduced risk of injury and illness to Alaska's workers.


An increased emphasis on worker safety and health is particularly important in times of economic decline, such as are presently being experienced. When cost-saving measures are implemented by employers during recessionary periods, equipment maintenance and replacement are diminished, and the need to increase worker productivity often results in unsafe "shortcuts" that would not be

POSITION PAPER/Department of Labor

taken or even considered in more prosperous times. The deterrent effect of increased penalties would, therefore, assure that implementation of cost-saving measures by Alaska business is not at the expense of or to the detriment of the safety and health of Alaska's workers.

The Department of Labor supports the increased penalties for violations of Alaska's occupational safety and health law and regulations as provided in this bill.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

Comparison of Alaska and U.S. Injury/Illness Rate* by Industry Type
1980 - 1984

| | 1980 | | 1981 | | 1982 | | 1983 | | 1984 | |
|------------------------------|---------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|
| | Alaska U.S. | % Above U.S. Average | Alaska U.S. | % Above U.S. Average | Alaska U.S. | % Above U.S. Average | Alaska U.S. | % Above U.S. Average | Alaska U.S. | % Above U.S. Average |
| Oil and Gas Production | $\frac{12.4}{13.4}$ | -7% | $\frac{15.8}{14.1}$ | 12% | $\frac{15.3}{12.1}$ | 26% | $\frac{11.8}{9.8}$ | 20% | $\frac{10.6}{11.8}$ | -10% |
| Construction | $\frac{16.5}{15.7}$ | 5% | $\frac{17.2}{15.1}$ | 14% | $\frac{19.4}{14.6}$ | 33% | $\frac{17.6}{14.8}$ | 19% | $\frac{16.9}{15.5}$ | 9% |
| Seafood Processing Canned | $\frac{21.4}{20.2}$ | 6% | $\frac{19.9}{22.4}$ | -11% | $\frac{18.6}{17.8}$ | 5% | $\frac{21.4}{17.1}$ | 25% | $\frac{25.0}{-}$ | - |
| Seafood Processing Frozen | $\frac{31.7}{19.4}$ | 63% | $\frac{24.6}{18.6}$ | 32% | $\frac{21.8}{17.1}$ | 28% | $\frac{32.9}{17.9}$ | 84% | $\frac{26.1}{17.3}$ | 51% |
| Lumber | $\frac{32.5}{18.6}$ | 75% | $\frac{26.8}{17.6}$ | 52% | $\frac{26.9}{16.9}$ | 59% | $\frac{31.2}{18.3}$ | 70% | $\frac{43.0}{19.6}$ | 119% |
| Transportation | $\frac{12.2}{9.4}$ | 30% | $\frac{11.6}{9.0}$ | 29% | $\frac{10.7}{8.5}$ | 26% | $\frac{11.4}{8.2}$ | 39% | $\frac{12.1}{8.8}$ | 38% |
| Wholesale Trade | $\frac{10.9}{8.2}$ | 33% | $\frac{9.8}{7.7}$ | 27% | $\frac{9.6}{7.1}$ | 35% | $\frac{12.3}{7.0}$ | 76% | $\frac{11.7}{7.2}$ | 62% |
| Retail Trade | $\frac{6.8}{7.1}$ | -4% | $\frac{7.4}{7.1}$ | 4% | $\frac{9.3}{7.2}$ | 29% | $\frac{9.6}{7.3}$ | 31% | $\frac{9.5}{7.5}$ | 27% |
| Services | $\frac{4.3}{5.2}$ | -17% | $\frac{4.3}{5.0}$ | -14% | $\frac{4.4}{4.9}$ | -10% | $\frac{4.7}{5.1}$ | -8% | $\frac{5.1}{5.2}$ | -2% |

* per 100 full-time workers

Sample of Penalty Structure

Other-than-Serious:¹

| Number of Employees ² | Present Penalty | Penalty under CSHB 53 |
|----------------------------------|-----------------|--------------------------|
| 3 | \$60 | \$300 |
| 50 | \$240 | \$1,200 |
| 200 | \$300 | \$1,500 |

Serious:

| Number of Employees | Present Penalty | Penalty under CSHB 53 |
|---------------------|-----------------|--------------------------|
| 3 | \$60 | \$1,000 |
| 13 | \$240 | \$2,400 |
| 65 | \$450 | \$4,500 |
| 300 | \$550 | \$5,500 |

Repeated Violations:³

| Number of Employees | Present Penalty | Penalty under CSHB 53 |
|---------------------|-----------------|--------------------------|
| 3 | \$120 | \$1,200 |
| 13 | \$480 | \$4,800 |
| 65 | \$900 | \$9,000 |
| 200 | \$1,100 | \$11,000 |

Willful Violations:

| Number of Employees | Present Penalty | Penalty under CSHB 53 |
|---------------------|-----------------|--------------------------|
| 3 | \$1,800 | \$18,000 |
| 50 | \$2,400 | \$24,000 |
| 100 | \$5,000 | \$25,000 |

¹It is the department's current policy not to assess a penalty for "other" violations unless 10 or more violations are found at the worksite.

²Each example for a certain number of employees is assuming a different set of circumstances from actual case files.

³If the violation is repeated a second time, the original penalty is multiplied by four and if it is repeated a third time the original penalty is multiplied by 10.

Failure to Abate Violation:⁴

| Number of Employees | Present Penalty | Penalty under CSHB 53 |
|---------------------|-----------------|-----------------------|
| 3 | \$450 | \$4,500 |
| 13 | \$750 | \$7,500 |
| 65 | \$1,050 | \$10,500 |
| 300 | \$1,350 | \$13,500 |

Posting Violations:

| | Present Penalty | Penalty under CSHB 53 |
|--|-----------------|-----------------------|
| Failure to post the "Safety and Health Protection on the Job" poster | \$60-\$100 | \$300-\$500 |
| Failure to post the "Annual Summary of Occupational Injuries and Illnesses" form | \$100-\$200 | \$500-\$1000 |
| Failure to post a citation issued by the Department of Labor | \$250-\$500 | \$1,250-\$2,500 |
| Failure to post the "Right-to-Know" poster | \$60-\$100 | \$300-\$500 |

Criminal Willful:⁵

| Present Penalty | Penalty under HB 53 |
|-----------------|---------------------|
| \$10,000 | \$150,000 |

⁴Note the maximum penalty under HB 53 for each day a violation is uncorrected is \$10,000. In calculating these penalties it is assumed that the violation was uncorrected for 5 days.

⁵The department has never issued a criminal willful violation; however, if such a violation was found, the department would ask for the maximum penalty allowed under the law.

Method of Penalty Adjustment

I. Non-Serious and Serious Violations

- A. Adjustment for gravity of violation¹ The Gravity Based Penalty results from an up to 90% reduction of starting penalty calculated using the following formula:

$$\% \text{ Reduction} = \left[\frac{\text{Severity Factor} + \text{Probability Factor}}{2} \right] \times 10 = 0-90\%$$

Gravity Based Penalty = % reduction x starting penalty of \$10,000
or
\$ 5,000

Gravity Based Penalty for a Serious Violation = \$1,000-\$10,000

Gravity Based Penalty for a Non-Serious Violation = \$ 500-\$ 5,000

- B. The Gravity Based Penalty is then reduced by as much as 80% for:

1. Size of business (# of employees) = up to 40% reduction
2. Good Faith = up to 30% reduction
3. No Prior History of Violations = up to 10% reduction

Range of Final Adjusted Penalty for Serious = \$1,000-\$10,000
Non-Serious = \$ 100-\$ 5,000

¹ Severity Factor: The severity of the injury or illness that could result from the hazard on a scale of 1-10.

1 - 3 Injury or illness not resulting in hospitalization or temporary reversible illness requiring minor treatment.

7 - 10 Injuries including permanent disability or chronic, irreversible illness or death.

Probability Factor: The probability that the injury or illness would occur due to the hazard on a scale of 1-10 taking into consideration number of workers exposed, frequency or duration or exposure, employee proximity, working conditions such as lighting.

II. Failure to Abate

Gravity Based Penalty = \$1,000-\$10,000

Maximum adjustment for: size 40%
good faith 30%
history 10%
\$ 200-\$2,000/per day

No adjustment for: size
good faith
History \$1,000-\$10,000/per day

III. Posting Violations

Current penalties for posting set by Federal OSHA by policy x 5

Posters [\$ 60-\$100] x 5 = \$300-\$500

Injury/Illness
List for that [\$100-\$200] x 5 = \$500-\$1,000
Worksite

Failure to Post
A Citation [\$250-\$500] x 5 = \$1,250-\$2,500
Issued by DOL

IV. Repeated Violations

Original Serious : \$1,000-\$10,000 x 2 First Repeat \$ 2,000-\$20,000
Violations x 4 Second Repeat \$ 4,000-\$25,000
x 10 Third Repeat \$10,000-\$25,000

V. Willful Violations: Penalty for willful violations = Gravity Based
Penalty x 10

\$1,000-\$10,000 x 10 = \$10,000-\$25,000

EXAMPLES OF VIOLATIONS

1. Serious Violation: Unguarded saw used once a month
- | | INITIAL AND
ADJUSTED PENALTY |
|--|---------------------------------|
| Initial Penalty | \$10,000 |
| Gravity Based Penalty reduced 90% for low probability/severity | \$ <u>9,000-</u> |
| Final Penalty | \$ 1,000 |
2. Serious Violation: Trench not shored in unstable ground
- | | |
|--|-----------|
| Initial Penalty | \$10,000 |
| No Reduction for Gravity Based Penalty | |
| Probability of collapse high, 0% adjustment | |
| Severity is high = death | |
| Final Penalty | \$10,000 |
| <u>Minimum adjustment for size, good faith, & history = 0%</u> | \$10,000 |
| >100 employees = 0% reduction for size | |
| Poor overall safety of worksite = 0% for good faith | |
| History of multiple, previous, uncorrected violations = 0% for history | |
| Final Penalty | \$10,000 |
| <u>Maximum adjustment for size, good faith & history = 80%</u> | \$ 2,000- |
| <10 employees | |
| Overall safety conditions of the rest of the worksite is good | |
| No previous history of violation | |
3. Non-Serious Violation: failure to monitor asbestos level in air
- | | |
|---|-------------------|
| Initial Penalty | \$ 5,000 |
| Gravity Based Penalty = | 90% reduction 500 |
| (does not directly cause death, injury or illness) | |
| <10 employees = | 40% reduction |
| Overall safety conditions = | 30% reduction |
| (inadequate effort to protect/incorrect respirators in use) | |
| New employer, no previous violations = | 10% reduction |
| | 80% reduction |
| $\$500 \times .80 = \400 | |
| $\$500 - \$400 = \$100$ Final Penalty | |
4. Repeated Violations
- | | | | | |
|--------------------|------------------|------|---------------|-------------------|
| Original Serious : | \$1,000-\$10,000 | x 2 | First Repeat | \$ 2,000-\$20,000 |
| Violations | | x 4 | Second Repeat | \$ 4,000-\$25,000 |
| | | x 10 | Third Repeat | \$10,000-\$25,000 |
5. Willful Violations: Penalty for willful violations = Gravity Based Penalty x 10 \$1,000-\$10,000 x 10 = \$10,000-\$25,000

Alaska State Legislature
Representative Niilo Koponen

Pouch V
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(907) 465-4992

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(907) 456-8161

POSITION PAPER

HB 53 - "AN ACT RELATING TO PENALTIES FOR VIOLATIONS TO
WORK-PLACE SAFETY LAWS"

This legislation would reinforce the legislative intent in AS 18.60.010, which states that the legislature finds that "...personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, the people of the state in terms of loss of production, wage loss, medical expenses and disability compensation payments." The health and safety of every Alaskan worker should be a first priority in any work-place.

Alaska is ranked third in the country for having the highest occupational injury and illness rates. It is therefore necessary to undertake a program to reduce the incidence of work-related accidents and health hazards in the state. My decision to strengthen the work-place safety laws resulted from past discussions with laborers, and research into case examples of the asbestos problems and other work-place accidents that have occurred within Alaska. These incidents include the Clear A.F.B. case, where avoidable microwave exposure causing severe injury to six workers resulted in a \$420 fine.

This legislation parallels actions taken by the Washington State Legislature last year (1986) by increasing penalties for serious work-place violations. For example, under current Alaska Statute the penalty for a serious work-place safety violation is a maximum fine of \$1,000. This penalty is then adjusted downward by the Occupational Safety and Health Administration (OSHA), taking into consideration factors such as the size of the employee's business, good faith of the employer and any previous history of violations. The adjusted average fine for a serious violation is \$175.00. This penalty structure, which has not been adjusted for the past 17 years, is not an effective deterrent to serious hazards.

HB 53 would increase the maximum fine to \$25,000. With the application of the adjustment formula this is expected to increase the average fine to \$4,375. The possibility of more severe fines should encourage companies to pay more attention to worker safety. In Washington, an equivalent violation now carries a maximum fine of \$50,000.

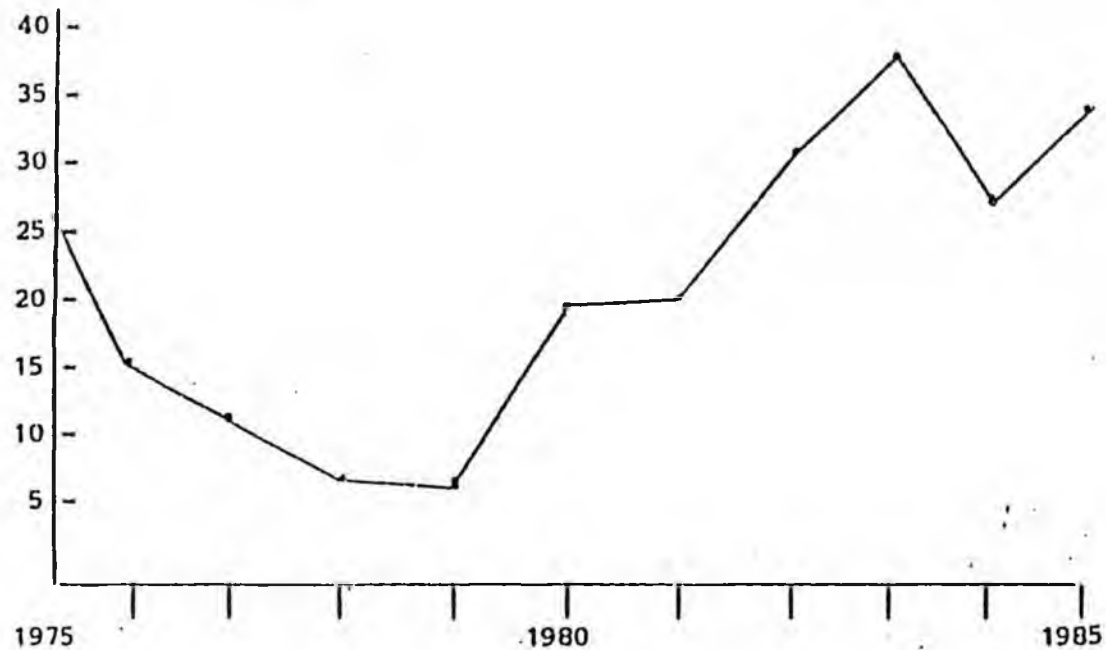
There is no reason why an employer can not abide by the standards that the federal and state statutes have established. There is a

common-law duty to provide a safe work-site that affects whomever supplies and controls that work-site. This duty protects all people on the site and not just the employees. (AS18.60.075.)

HB 53 is a deterrent intended to encourage businesses to conform to work-place safety laws and regulations. The main purpose of this legislation is to remind employers of their responsibility to prevent accidents. An increase in fines is one way of making sure that safety in the work-place is a top priority. Employees and the public need this protection. If an employer complies with required statutes and standards, then there should be no worry of being fined. Small fines are not effective enough to make changes occur.

It is the sponsor's earnest hope that greater compliance will result in a decrease in the number of fines levied. Collected fines levied will be deposited into the general fund which can be used to offset the temporary administrative costs that the Department of Labor will have until the new fines are promulgated.

Alaska Injury and Illness Rate
Percentage Above National Average



Alaskan versus National Incidence Rates By Year

| | <u>1975</u> | <u>1976</u> | <u>1977</u> | <u>1978</u> | <u>1979</u> | <u>1980</u> | <u>1981</u> | <u>1982</u> | <u>1983</u> | <u>1984</u> | <u>1985</u> |
|-----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Alaska | 11.5 | 10.7 | 10.4 | 10.0 | 10.1 | 10.4 | 10.0 | 10.3 | 10.6 | 10.3 | 10.7 |
| U.S. | 9.1 | 9.2 | 9.3 | 9.4 | 9.5 | 8.7 | 8.3 | 7.7 | 7.6 | 8.0 | 7.9 |
| Percentage Above National Average | 26.0 | 16.3 | 11.8 | 6.3 | 6.3 | 19.5 | 20.4 | 33.7 | 39.4 | 28.0 | 35.0 |

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-8161

March 9, 1987

Representative Al Adams
P.O. Box V
Juneau, AK 99802

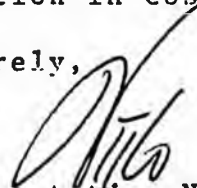
Dear Al:

Alaska ranks third nationwide in preventable occupational injury and illness rates. In the last five years, Kotzebue, Barrow and the areas in between (Senate District L) workers suffered 17 amputations, 19 chemical burns, 43 other burns, 19 concussions, and 333 contusions or crushing injuries to cite just a few of the many categories of injury.

Fines for repeat and serious offenders - including those whose action or inaction can cause a second fatality - have been limited to \$1000 since Alaska took control of OSHA 17 years ago. Factors such as company size and "good faith" are used to scale down fines so the average fine for a serious offense is \$175.00. Alaska's industrial accident rate fell from the time we took over OSHA until 1982. It has risen steadily since. Perhaps inflation has made the fine schedule less meaningful. Paying the fine penalty may be cheaper than correcting the hazard. The rate of injuries also impacts our workers compensations system, raising premium costs for all employers, even the law abiding ones.

We need the deterrent that these fines represent. Only those who violate the law will pay. Other businesses should see a reduction in costs as workers compensation premiums go down.

Sincerely,



Representative Niilo Koponen
NK/SP

OSHA fines put low value on life

'Petty cash' penalties follow investigations of fatalities

By Arlee C. Green

What is a worker's life worth?

It depends on whom you ask, but workers agree that you shouldn't ask the Occupational Safety & Health Administration. Its price is often under \$1,000—a "petty cash" fine.

OSHA recently reported that in 1985 there were 3,750 job-related fatalities in the 280,000 workplaces it surveyed. The federal job safety agency's responsibilities extend to more than 5 million workplaces across the country.

The fines meted out in worker deaths relate only to the infractions involved, such

as unsafe wiring or lack of a machine guard. There's no connection between the fine for a safety violation and the death of a worker because of that violation. Further, OSHA is limited by law in the size of fine it can assess—\$1,000 for a serious violation and \$10,000 for a willful violation.

OSHA does not keep separate statistics on fines assessed in worker deaths, but in figures it provided to a House hearing, OSHA said that in 1983 it conducted investigations of 1,376 accidents where either a worker was killed or more than four workers were hospitalized. From that, it found 2,073 violations—1,022 that were

serious, 30 willful, 26 repeat and 995 other than serious. The fines assessed for those violations totaled \$589,422—an average of about \$284 per violation and only 40 percent of the legal limit it could have assessed.

The Reagan Administration early on attempted to get OSHA "off the backs" of employers and off the shop floor. It slashed funding and the size of the agency's inspection force, but kept inspections figures artificially high by doing only "safety records checks" at many workplaces.

A rise in worker deaths, along with

Continued on Page 3

Continued from Page 1

labor and public pressure, brought in focus the possibility that employers were not keeping accurate safety records. OSHA eventually found widespread recordkeeping problems and in a highly publicized action in 1986, OSHA assessed a record \$1.37-million penalty against Union Carbide Corp. for 221 safety violations, including 129 willful record-keeping violations each assessed at the \$10,000 maximum. The company is now trying to get the fine reduced before it pays.

In contrast, Virginia's job safety agency recently called for a \$900 fine against Avtex Fibers Inc. of Front Royal, Va., for a death resulting from a serious safety violation. The firm, whose 1,300 employees are represented by Clothing & Textile Workers Local 371-T, was also told to enforce a regularly scheduled maintenance program

on the type of equipment involved in the accident.

Worker deaths continue in part because federal and state government funding cut-backs for job safety programs. At the federal level, the number of OSHA inspectors has dropped severely under the Reagan Administration. The fiscal year 1988 budget request submitted in January seeks a \$15-million increase—which would return its budget to the level of the Carter Administration funding.

Paper tiger

In addition, federal OSHA has set a pattern of inspecting just job safety records rather than doing wall-to-wall inspections. When it does issue citations, it usually groups several violations under one citation. Companies often get their fines reduced or wiped out following a consultation with OSHA officials or on appeal to the Occupational Safety & Health Review Commission.

In the Avtex case, Charles Samborsky, head of the plant's acid-recovery department, was killed last Nov. 11 after he was sucked into a pressurized tank that imploded while he was attempting to make repairs.

Avtex was cited by Virginia OSHA under the general duty clause requiring employers to maintain a workplace free from hazards. Samborsky's death was one of three at the plant in a five-week period.

Robert Kent was killed when a bale of pulp fell on his forklift. He reportedly had stuck his head through the protection cage bars. In the third accident, supervisor Clarence Conard died when overcome by fumes. He reportedly was not wearing a

safety harness or a fresh air mask when the accident occurred.

Herbert Easton, business agent of the ACTWU local, said that since the accidents the company has held safety meetings with union members and has accepted "some of our ideas on improving safety. I feel the plant is now doing its part."

Easton, who sat in on meetings between Virginia OSHA and company officials, said he doubted citations would be issued against Avtex in the other worker deaths.

OSHA can and does on occasion refer its worker death findings to federal prosecutors for possible criminal prosecution.

And in Chicago two years ago, a Cook County court handed down 25-year murder sentences to three executives of Film Recovery Inc. for the death of a worker exposed to open vats of cyanide.

Ongoing investigation

OSHA has since referred to the U.S. attorney's office for possible criminal prosecution its investigation of a fatal accident that occurred Apr. 23, 1985, involving Kenny Construction Co. Inc. of Wheeling, Ill., a suburb of Chicago.

There, a foreman died of asphyxiation after he and another worker were lowered in a cage into an unventilated 20-foot shaft. The worker and three others, members of Laborers Local 2, were felled by a lack of oxygen in the subsequent rescue attempt, but all survived.

In that case, OSHA cited Kenny Construction with several serious and willful violations, and noted the firm "has an extensive history of similar violations of OSHA safety standards." The company has appealed those citations to the OSHRC.

OSHA-CIO NEWS Sat, Feb 7 1987

November 1986

FATALITY RATES From RLS-OSH Survey

Bureau of Labor Statistics calculates a fatality rate for private sector firms employing more than 10 workers. The rate has a base of 100,000 full-time workers and is computed (estimated number of fatalities x 200,000,000)/hours worked. If we use the fatalities estimated by the OSH survey for Alaska and follow the same formula we get comparable statistics. An important point is that the fatalities estimated by the survey equal about half of those reported to Workers' Compensation. Fatality rate is therefore underestimated.

| | <u>U.S.</u> | <u>Alaska</u> |
|------|----------------|---------------|
| 1974 | 9.8 | |
| 1975 | 9.4 | |
| 1976 | 7.9 | |
| 1977 | 9.1 | |
| 1978 | 8.2 | |
| 1979 | 8.6 | |
| 1980 | 7.7 | |
| 1981 | 7.6 | |
| 1982 | 7.4 | |
| 1983 | 5.6 | 15.3 |
| 1984 | 6.4 | 14.7 |
| 1985 | | 16.1 |

ILLNESS RATES From BLS-OSH Survey

The annual survey computed its incidence rates using a base of 100 full-time workers (using the formula [number of cases x 200,000]/hours worked). In its last release of data for 1984, the Bureau of Labor Statistics computed an illness rate using a base of 10,000 workers (number of cases x 20,000,000)/hours worked. This was done to make the illness statistic more meaningful. We can compute comparative data for Alaska.

Illness Rates Using a Base of 10,000 workers:

| | <u>U.S.</u> | <u>Alaska</u> |
|------|-------------|---------------|
| 1983 | | 28.8 |
| 1984 | 18.4 | 21.4 |
| 1985 | | 28.7 |

Incidence rates of Recordable Occupational Injuries and Illnesses
Comparison of all States - Private Sector
1983 and 1984 Ranked by 1984 rates

| USA | 1983 | 1984 |
|--------------|------|------|
| USA | 7.6 | 8.0 |
| Maine | 11.0 | 13.2 |
| Oregon | 9.8 | 10.6 |
| Alaska | 10.3 | 10.3 |
| Vermont | 9.2 | 10.0 |
| Hawaii | 10.6 | 10.0 |
| Washington | 9.7 | 9.9 |
| Oklahoma | 8.9 | 9.8 |
| Arizona | 9.3 | 9.5 |
| California | 9.1 | 9.3 |
| Utah | 8.5 | 9.2 |
| Nevada | 9.0 | 9.0 |
| Florida | 8.7 | 8.9 |
| Nebraska | 8.4 | 8.8 |
| New Mexico | 7.8 | 8.7 |
| Wyoming | 7.9 | 8.6 |
| Tennessee | 7.9 | 8.6 |
| Montana | | 8.5 |
| Rhode Island | 8.3 | 8.4 |
| Alabama | 7.9 | 8.3 |
| Kentucky | 7.6 | 8.3 |
| Connecticut | 8.0 | 8.3 |
| Iowa | 7.8 | 8.1 |
| Mississippi | | 8.0 |
| Arkansas | 8.1 | 8.0 |
| Missouri | 7.5 | 8.0 |
| Louisiana | 7.4 | 7.9 |
| Maryland | 7.6 | 7.8 |
| Minnesota | 7.3 | 7.7 |
| Kansas | | 7.7 |

FIGURE 1-10a
Estimated OSHA Recordable Cases
Private Sector Alaska and U.S.
1972-1984

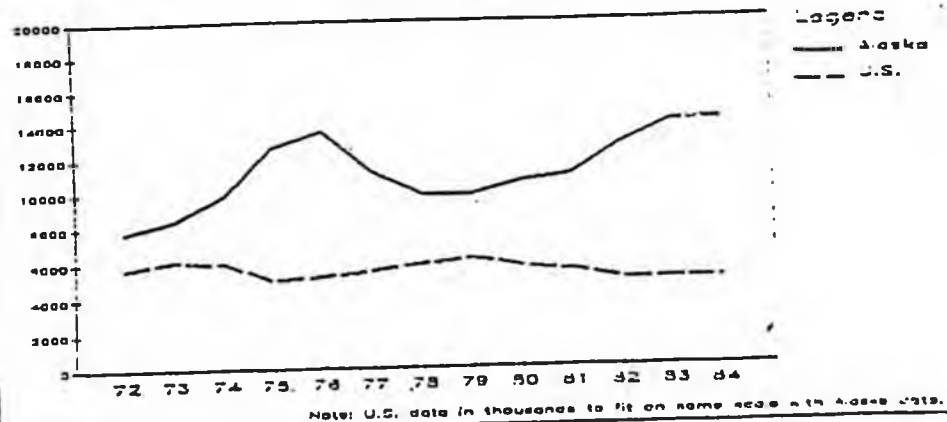
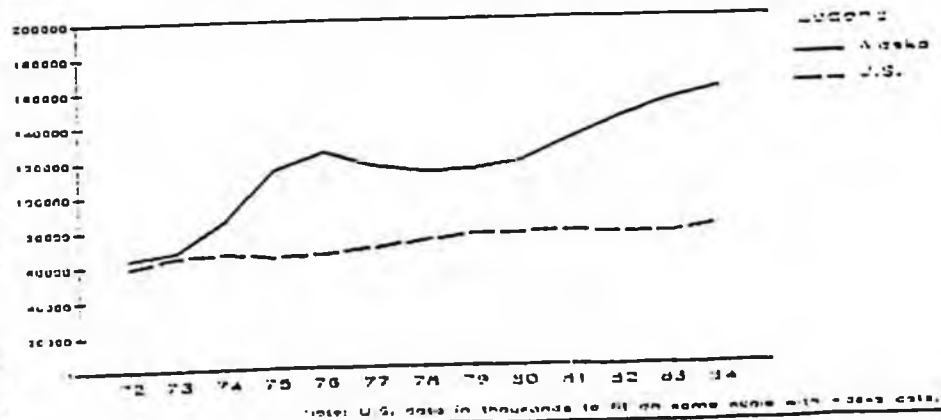


FIGURE 1-10b
Annual Average Employment
Private Sector Alaska and U.S.
1972-1984



Definition of a Serious Violation:

A serious violation is considered to exist if the violation creates in the place of employment a substantial probability of death or serious physical harm. However, a serious violation is not considered to exist if the employer did not, and could not with the exercise of reasonable intelligence, know of the presence of the violation. AS 18.60.095(b)

Sample of Penalty Structure

Other-than-Serious:¹

| Number of Employees ² | Present Penalty | Penalty under CSHB 53 (JUD) |
|----------------------------------|-----------------|--------------------------------|
| 3 | \$60 | \$300 |
| 50 | \$240 | \$1,200 |
| 200 | \$300 | \$1,500 |

Serious:

| Number of Employees | Present Penalty | Penalty under CSHB 53 (JUD) |
|---------------------|-----------------|--------------------------------|
| 3 | \$60 | \$1,000 |
| 13 | \$240 | \$2,400 |
| 65 | \$450 | \$4,500 |
| 300 | \$550 | \$5,500 |

Repeated Violations:³

| Number of Employees | Present Penalty | Penalty under CSHB 53 (JUD) |
|---------------------|-----------------|--------------------------------|
| 3 | \$120 | \$1,200 |
| 13 | \$480 | \$4,800 |
| 65 | \$900 | \$9,000 |
| 200 | \$1,100 | \$11,000 |

Willful Violations:

| Number of Employees | Present Penalty | Penalty under CSHB 53 (JUD) |
|---------------------|-----------------|--------------------------------|
| 3 | \$1,800 | \$18,000 |
| 50 | \$2,400 | \$24,000 |
| 100 | \$5,000 | \$25,000 |

¹It is the department's current policy not to assess a penalty for "other" violations unless 10 or more violations are found at the worksite.

²Each example for a certain number of employees is assuming a different set of circumstances from actual case files.

³If the violation is repeated a second time, the original penalty is multiplied by four and if it is repeated a third time the original penalty is multiplied by 10.

Failure to Abate Violation:⁴

| Number of Employees | Present Penalty | Penalty under CSHB 53 (JUD) |
|---------------------|-----------------|--------------------------------|
| 3 | \$450 | \$4,500 |
| 13 | \$750 | \$7,500 |
| 65 | \$1,050 | \$10,500 |
| 300 | \$1,350 | \$13,500 |

Posting Violations:

| | Present Penalty | Penalty under CSHB 53 (JUD) |
|--|-----------------|--------------------------------|
| Failure to post the "Safety and Health Protection on the Job" poster | \$50-\$100 | \$120-\$200 |
| Failure to post the "Annual Summary of Occupational Injuries and Illnesses" form | \$100-\$200 | \$200-\$400 |
| Failure to post a citation issued by the Department of Labor | \$250-\$500 | \$500-\$1,000 |
| Failure to post the "Right-to-Know" poster | \$60-\$100 | \$120-\$200 |

Criminal Willful:⁵

| Present Penalty | Penalty under CSHB 53 (JUD) |
|-----------------|--------------------------------|
| \$10,000 | \$150,000 |

⁴Note the maximum penalty under HB 53 for each day a violation is uncorrected is \$10,000. In calculating these penalties it is assumed that the violation was uncorrected for 5 days.

⁵The department has never issued a criminal willful violation; however, if such a violation was found, the department would ask for the maximum penalty allowed under the law.

Method of Penalty Adjustment

I. Non-Serious and Serious Violations

- A. Adjustment for gravity of violation¹ The Gravity Based Penalty results from an up to 90% reduction of starting penalty calculated using the following formula:

$$\% \text{ Reduction} = \left[\frac{\text{Severity Factor} + \text{Probability Factor}}{2} \right] \times 10 = 0-90\%$$

Gravity Based Penalty = % reduction x starting penalty of \$10,000
or
\$ 5,000

Gravity Based Penalty for a Serious Violation = \$1,000-\$10,000

Gravity Based Penalty for a Non-Serious Violation = \$ 500-\$ 5,000

- B. The Gravity Based Penalty is then reduced by as much as 80% for:

1. Size of business (# of employees) = up to 40% reduction
2. Good Faith = up to 30% reduction
3. No Prior History of Violations = up to 10% reduction

Range of Final Adjusted Penalty for Serious = \$1,000-\$10,000
Non-Serious = \$ 100-\$ 5,000

¹ Severity Factor: The severity of the injury or illness that could result from the hazard on a scale of 1-10.

1 - 3 Injury or illness not resulting in hospitalization or temporary reversible illness requiring minor treatment.

7 - 10 Injuries including permanent disability or chronic, irreversible illness or death.

Probability Factor: The probability that the injury or illness would occur due to the hazard on a scale of 1-10 taking into consideration number of workers exposed, frequency or duration or exposure, employee proximity, working conditions such as lighting.

II. Failure to Abate

Gravity Based Penalty = \$1,000-\$10,000

Maximum adjustment for: size 40%
good faith 30%
history 10%
\$ 200-\$2,000/per day

No adjustment for: size
good faith
History
\$1,000-\$10,000/per day

III. Posting Violations

Current penalties for posting set by Federal OSHA by policy x 5

Posters [\$ 60-\$100] x 2 = \$120-\$200

Injury/Illness
List for that [\$100-\$200] x 2 = \$200-\$400
Worksite

Failure to Post
A Citation [\$250-\$500] x 2 = \$500-\$1,000
Issued by DOL

IV. Repeated Violations

Original Serious : \$1,000-\$10,000 x 2 First Repeat \$ 2,000-\$20,000
Violations x 4 Second Repeat \$ 4,000-\$25,000
x 10 Third Repeat \$10,000-\$25,000

V. Willful Violations: Penalty for willful violations = Gravity Based
Penalty x 10
\$1,000-\$10,000 x 10 = \$10,000-\$25,000

EXAMPLES OF VIOLATIONS

1. Serious Violation: Unguarded saw used once a month

INITIAL AND
ADJUSTED PENALTY

| | |
|--|-----------|
| Initial Penalty | \$10,000 |
| Gravity Based Penalty reduced 90% for low probability/severity | \$ 9,000- |
| Final Penalty | \$ 1,000 |

2. Serious Violation: Trench not shored in unstable ground

| | |
|---|----------|
| Initial Penalty | \$10,000 |
| No Reduction for Gravity Based Penalty | |
| Probability of collapse high, 0% adjustment | |
| Severity is high = death | |
| Final Penalty | \$10,000 |

| | |
|--|----------|
| <u>Minimum adjustment for size, good faith, & history = 0%</u> | \$10,000 |
| >100 employees = 0% reduction for size | |
| Poor overall safety of worksite = 0% for good faith | |
| History of multiple, previous, uncorrected violations = 0% for history | |
| Final Penalty | \$10,000 |

| | |
|--|-----------|
| <u>Maximum adjustment for size, good faith & history = 80%</u> | \$ 2,000- |
| <10 employees | |
| Overall safety conditions of the rest of the worksite is good | |
| No previous history of violation | |

3. Non-Serious Violation: failure to monitor asbestos level in air

| | |
|---|---------------|
| Initial Penalty | \$ 5,000 |
| Gravity Based Penalty = 90% reduction | 500 |
| (does not directly cause death, injury or illness) | |
| <10 employees = 40% reduction | |
| Overall safety conditions = 30% reduction | |
| (inadequate effort to protect/incorrect respirators in use) | |
| New employer, no previous violations = 10% reduction | |
| | 80% reduction |

\$500 x .80 = \$400
\$500 - \$400 = \$100 Final Penalty

4. Repeated Violations

| | | | |
|-----------------------------|------------------------|--------------|---------------------------------|
| Original Serious Violations | : \$1,000-\$10,000 x 2 | First Repeat | \$ 2,000-\$20,000 |
| | | x 4 | Second Repeat \$ 4,000-\$25,000 |
| | | x 10 | Third Repeat \$10,000-\$25,000 |

5. Willful Violations: Penalty for willful violations = Gravity Based
Penalty x 10 \$1,000-\$10,000 x 10 = \$10,000-\$25,000

D

Incidence rates of Recordable Occupational Injuries and Illnesses
 Comparison of all States - Private Sector
 1983 to 1984

| | 1983 | 1984 |
|----------------|------|------|
| USA | 7.6 | 8.0 |
| Maine | 11.0 | 13.2 |
| Oregon | 9.8 | 10.5 |
| Alaska | 10.6 | 10.3 |
| Vermont | 9.2 | 10.0 |
| Hawaii | 10.6 | 10.0 |
| Washington | 9.7 | 9.3 |
| Oklahoma | 9.9 | 9.3 |
| Arizona | 9.2 | 9.3 |
| California | 9.1 | 9.2 |
| Utah | 9.5 | 9.2 |
| Nevada | 9.0 | 9.0 |
| Florida | 9.7 | 9.9 |
| Nebraska | 9.4 | 9.3 |
| New Mexico | 7.2 | 8.7 |
| Tennessee | 7.9 | 8.6 |
| Wyoming | 7.2 | 8.9 |
| Montana | | 8.5 |
| Rhode Island | 9.2 | 8.4 |
| Connecticut | 9.0 | 9.9 |
| Alabama | 7.3 | 8.3 |
| Kentucky | 7.6 | 8.3 |
| Iowa | 7.2 | 8.1 |
| Arkansas | 8.1 | 8.0 |
| Mississippi | | 8.0 |
| Missouri | 7.5 | 8.0 |
| Louisiana | 7.4 | 7.9 |
| Maryland | 7.6 | 7.8 |
| Minnesota | 7.2 | 7.7 |
| Kansas | | 7.7 |
| Indiana | 7.3 | 7.7 |
| Virginia | 7.0 | 7.3 |
| Michigan | 8.2 | 7.8 |
| North Carolina | 8.3 | 7.9 |
| West Virginia | 8.7 | 7.2 |
| South Carolina | 8.7 | 8.9 |
| Delaware | 8.0 | 8.6 |
| Puerto Rico | 4.8 | 5.0 |
| American Samoa | 2.5 | 3.0 |
| Guam | 2.7 | 2.3 |
| Virgin Islands | 2.3 | 2.4 |
| Texas | | |
| Illinois | | |
| New Hampshire | | |
| New Jersey | | |
| Wisconsin | | |
| Massachusetts | | |
| Idaho | | |
| Georgia | | |
| Ohio | | |
| South Dakota | | |
| North Dakota | | |
| Colorado | | |
| Montenegro | | |
| Algeria | | |

TABLE 1-5
Incidence Rates of Lost Workday Cases (Injuries and Illnesses)
Industry Data Time Series, Alaska 1976 to 1985

| Industry 1/ SIC Code 2/ | Incidence Rate for Lost Workday Cases (per 100 workers) | | | | | | | | | | |
|---|---|------|------|------|------|------|------|------|------|------|--|
| | 1976 | 1977 | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | |
| TOTAL PRIVATE AND PUBLIC SECTOR 11/.. | 5.0 | 4.7 | 4.6 | 4.6 | 4.7 | 4.3 | 4.4 | 4.5 | 4.3 | 4.5 | |
| TOTAL PRIVATE SECTOR..... | 5.3 | 5.0 | 5.0 | 5.0 | 5.3 | 4.8 | 4.9 | 4.9 | 4.5 | 4.9 | |
| MINING..... | 5.9 | 6.1 | 8.3 | 7.3 | 6.2 | 6.4 | 6.1 | 4.6 | 4.2 | 4.0 | |
| Oil and Gas Extraction..... 13 | 6.5 | 6.0 | 3.5 | 7.0 | 6.2 | 6.3 | 5.2 | 4.6 | 4.2 | 4.1 | |
| Petroleum & Gas Production..... 131 | - | - | 3.7 | 2.2 | 1.2 | 1.2 | 1.3 | 1.3 | 1.2 | 0.7 | |
| Oil & Gas Field Services..... 138 | - | - | 12.4 | 11.7 | 12.1 | 11.7 | 11.5 | 8.3 | 8.5 | 7.9 | |
| CONSTRUCTION..... | 7.5 | 7.3 | 8.5 | 7.5 | 7.0 | 7.8 | 8.4 | 8.1 | 7.0 | 8.3 | |
| General Building Contractors..... 15 | 7.2 | 6.5 | 7.2 | 5.3 | 6.0 | 10.8 | 9.3 | 11.4 | 8.1 | 8.1 | |
| Residential Buildings..... 152 | 3.5 | 6.5 | 7.7 | 3.8 | 6.7 | 9.7 | 8.6 | 9.8 | 5.0 | 5.5 | |
| Nonresidential Buildings..... 154 | 9.3 | 6.8 | 7.1 | 6.9 | 5.2 | 12.2 | 9.8 | 13.1 | 10.0 | 10.5 | |
| Heavy Construction Contractors..... 16 | 7.4 | 7.4 | 8.8 | 9.1 | 7.5 | 6.6 | 8.8 | 8.7 | 6.4 | 7.9 | |
| Highway and Street Construction... 161 | 7.8 | 13.1 | 4.4 | 11.4 | 7.9 | 8.4 | 10.8 | 8.2 | 7.5 | 7.1 | |
| Heavy Construction, Except Hwy... 162 | 7.3 | 3.6 | 11.0 | 7.6 | 7.3 | 5.7 | 7.6 | 9.0 | 5.0 | 5.6 | |
| Special Trade Contractors..... 17 | 8.3 | 7.5 | 7.3 | 7.5 | 7.1 | 7.4 | 7.4 | 7.2 | 5.5 | 5.9 | |
| Plumbing, Heating & Air Condit... 171 | 10.3 | 6.6 | 5.3 | 5.5 | 5.1 | 7.4 | 6.6 | 11.3 | 9.8 | 9.3 | |
| Electrical Work..... 173 | 4.8 | 8.8 | 6.0 | 6.2 | 8.2 | 6.3 | 5.5 | 4.9 | 4.1 | 5.3 | |
| Misc. Special Trade Contractors... 179 | 10.9 | 5.5 | - | 3.9 | 7.2 | 8.6 | 8.0 | 4.9 | 3.5 | 3.9 | |
| MANUFACTURING..... | 9.7 | 10.9 | 10.3 | 11.3 | 11.8 | 9.6 | 9.5 | 10.0 | 10.3 | 12.0 | |
| Food and Kindred Products..... 20 | 8.6 | 10.7 | 10.1 | 11.8 | 12.3 | 9.0 | 10.0 | 11.0 | 9.9 | 12.6 | |
| Misc. Food Prep. & Kindred Prod... 209 | 8.3 | 10.5 | 10.2 | 11.9 | 12.3 | 8.9 | 10.3 | 11.1 | 10.1 | 12.6 | |
| Canned & Cured Fish & Seafoods.. 2091 | 6.3 | 7.2 | 8.7 | 10.9 | 11.7 | 6.3 | 7.6 | 5.8 | 3.9 | 11.7 | |
| Fresh/Froz. Pkgd. Fish & Seafood 2092 | 2.6 | 11.9 | 12.3 | 13.1 | 12.9 | 10.4 | 11.6 | 12.7 | 12.5 | 13.5 | |
| Lumber & Wood Prod. except Furniture 24 | 22.1 | 21.1 | 17.1 | 17.0 | 18.8 | 17.6 | 17.3 | 17.7 | 18.9 | 19.0 | |
| Logging Camps & Contractors..... 241 | 23.3 | 23.5 | 20.1 | 20.7 | 20.4 | 16.9 | 19.3 | 21.6 | 25.6 | 33.0 | |
| Printing, Publishing & Allied Ind... 27 | 1.3 | - | - | - | 1.7 | 2.0 | 2.5 | 3.1 | 4.3 | 5.9 | |
| TRANSPORTATION AND PUBLIC UTILITIES... | 6.3 | 7.1 | 6.3 | 6.5 | 7.0 | 6.4 | 6.1 | 5.0 | 5.4 | 6.1 | |
| Local & Interurban Passenger Transit 41 | 1.0 | - | - | 2.2 | 1.4 | 1.9 | 2.9 | 3.7 | 3.4 | 3.5 | |
| Trucking and Warehousing..... 42 | 11.6 | 10.3 | 16.1 | 11.4 | 15.0 | 10.3 | 7.3 | 9.3 | 10.1 | 11.1 | |
| Trucking, Local and Long Distance. 421 | 11.6 | 10.6 | 17.2 | 12.2 | 13.2 | 10.5 | 3.1 | 3.2 | 3.2 | 11.3 | |
| Water Transportation..... 44 | 10.6 | 3.3 | 7.3 | 7.9 | 11.3 | 10.4 | 3.0 | 3.2 | 3.2 | 3.2 | |
| Transportation by Air..... 45 | 5.6 | 9.4 | 7.5 | 3.5 | 3.3 | 8.0 | 3.0 | 7.2 | 4.5 | 4.3 | |
| Communication..... 48 | 1.4 | 2.5 | 1.3 | 4.1 | 5.3 | 4.8 | 4.9 | 4.5 | 4.5 | 4.3 | |
| Electric, Gas and Sanitary Services. 49 | 4.9 | 5.5 | 5.6 | 5.1 | 6.0 | 4.9 | 5.9 | 3.7 | 5.5 | 5.7 | |
| WHOLESALE & RETAIL TRADE..... | 3.8 | 3.6 | 3.4 | 3.4 | 3.7 | 3.5 | 4.3 | 4.7 | 4.1 | 4.4 | |
| WHOLESALE TRADE..... | 3.2 | 4.7 | 4.4 | 5.6 | 5.3 | 5.0 | 3.7 | 6.0 | 6.0 | 5.5 | |
| Durable Goods..... 50 | 2.9 | 3.8 | 4.8 | 5.7 | 3.3 | 3.3 | 2.1 | 3.5 | 3.6 | 4.9 | |
| Nondurable Goods..... 51 | 3.6 | 6.4 | 3.7 | 5.4 | 9.0 | 7.7 | 6.5 | 10.2 | 7.4 | 7.2 | |
| RETAIL TRADE..... | 4.0 | 3.2 | 3.0 | 2.8 | 3.2 | 3.1 | 4.4 | 4.3 | 3.9 | 4.3 | |
| Building Materials & Garden Supplies 52 | 6.0 | 4.5 | 4.3 | 3.1 | 5.0 | 3.3 | 7.0 | 7.5 | 7.2 | 6.5 | |
| Lumber & Blog Materials..... 521 | - | - | - | - | - | - | 7.9 | 11.4 | 13.7 | 7.8 | |
| General Merchandise Stores..... 53 | 2.6 | 2.6 | 2.3 | 2.2 | 2.3 | 2.8 | 3.6 | 5.3 | 5.6 | 5.3 | |
| Food Stores..... 54 | 5.7 | 4.0 | 4.1 | 3.3 | 4.3 | 2.8 | 5.9 | 4.8 | 4.6 | 4.1 | |
| Auto Dealers and Service Stations... 55 | 2.8 | 3.3 | 4.8 | 3.8 | 4.5 | 5.0 | 4.5 | 5.1 | 4.5 | 4.9 | |
| Apparel and Accessory Stores..... 56 | 0.8 | 1.2 | 1.9 | 1.2 | 0.6 | 0.5 | 0.7 | 0.5 | 0.6 | 0.3 | |
| Furniture, Home Furnishings..... 57 | - | - | - | - | - | - | 2.6 | 1.1 | 1.1 | 0.8 | |
| Eating and Drinking Places..... 58 | 5.3 | 4.9 | 2.9 | 3.4 | 3.7 | 2.8 | 3.1 | 4.2 | 3.1 | 3.9 | |
| Miscellaneous Retail..... 59 | 2.5 | 0.7 | 1.7 | 1.2 | 1.3 | 2.4 | 2.0 | 2.1 | 2.3 | 2.0 | |
| FINANCE, INSURANCE, REAL ESTATE..... | 0.6 | 0.3 | 0.4 | 0.6 | 0.7 | 0.6 | 0.4 | 0.8 | 0.7 | 0.9 | |
| Banking..... 60 | 3.9 | 1.3 | 0.8 | 0.7 | 1.0 | 0.9 | 0.5 | 1.8 | 0.9 | 1.1 | |
| Credit Agencies..... 61 | - | - | - | - | - | - | 0.6 | 0.5 | 0.5 | 0.3 | |
| Insurance..... 63 | - | 1.2 | 0.1 | - | - | - | - | - | - | 1.0 | |
| Real Estate..... 65 | 0.8 | - | - | - | 1.3 | 0.8 | 0.3 | 0.6 | 0.6 | 1.0 | |
| Holding & Other Investment Offices.. 67 | 0.6 | 0.1 | 0.1 | 1.3 | - | 0.9 | 0.7 | 1.2 | - | 1.0 | |
| SERVICES..... | 1.4 | 2.0 | 2.0 | 2.4 | 2.4 | 2.3 | 2.3 | 2.3 | 2.0 | 2.1 | |
| Hotels and Other Lodging Places..... 70 | 2.8 | 8.9 | 6.8 | 4.6 | 4.4 | 4.4 | 3.8 | 3.8 | 4.0 | 4.1 | |
| Personal Services..... 72 | - | 1.0 | 3.6 | 0.7 | 0.7 | 0.7 | 0.7 | 0.7 | 0.7 | 0.7 | |
| Laundry Services..... 73 | 2.4 | 0.8 | 1.5 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | |
| Automotive Services..... 75 | - | - | - | - | - | - | - | - | - | - | |
| Health Services..... 80 | 1.5 | 0.5 | 2.4 | 2.6 | 2.6 | 2.6 | 2.6 | 2.6 | 2.6 | 2.6 | |
| Legal Services..... 81 | 0.1 | - | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | |
| Public Services..... 82 | 1.5 | 1.0 | 2.4 | 2.6 | 2.6 | 2.6 | 2.6 | 2.6 | 2.6 | 2.6 | |
| Professional Organizations..... 83 | 0.1 | 0.1 | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | |
| Other Services..... 89 | 0.7 | 0.2 | 1.0 | 1.2 | 1.2 | 1.2 | 1.2 | 1.2 | 1.2 | 1.2 | |
| STATE AND LOCAL GOVERNMENT..... | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | |
| STATE GOVERNMENT..... | 1.7 | 1.9 | 1.9 | 1.4 | 1.3 | 1.6 | 1.6 | 1.6 | 1.6 | 1.6 | |
| LOCAL GOVERNMENT..... | 0.7 | 0.8 | 0.7 | 0.2 | 0.7 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | |

1/10 continued on end of section.
2/10 Data not available.

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✓cc: Bill Bayhe

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SEP 13 1984

Industrial Hygiene

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE

INVESTIGATION OF OCCUPATIONAL
EXPOSURE TO PENTACHLOROPENOL
BETHEL, ALASKA
AUGUST, 1984

BY
MARK A. HAMILTON
FIELD SANITARIAN

INDIAN HEALTH SERVICE
ALASKA AREA NATIVE HEALTH SERVICE
ANCHORAGE, ALASKA

INTRODUCTION

On August 27, 1984 the Office of Environmental Health was contacted by Ms. Betsy Blassingham, Outpatient Department, regarding one patient who may have been occupationally exposed to pentachlorophenol (PCP) during the application of a wood preservative. While meeting with Ms. Blassingham and the patient, it was determined that the patient was employed by the Lower Kuskokwim School District (LKSD), working on the construction of a utilidor, and may have been applying the wood preservative while not wearing the proper safety equipment. The patient had been tentatively diagnosed as having "Chemical Jaundice".

Based on this information, Dr. Donn Kruse, Community Health Director, was contacted. Dr. Kruse contacted LKSD and it was found that an additional five employees were involved in the wood preservative application. All employees were provided medical evaluations and testing. Additional action taken included reporting to the appropriate personnel and agencies, conducting a site evaluation, and obtaining product information.

PERSONNEL AND AGENCIES CONTACTED

Mr. Lew Colwell, Staff Sanitarian, Area Environmental Services Section, AANHS.

Dr. John Middaugh, State Epidemiologist, Department of Health and Social Services, State of Alaska.

Mr. Bill Blythe, Industrial Hygienist, Alaska Department of Labor, OSHA.

Mr. Corey Willis, Alaska Department of Environmental Conservation, Region II.

Mr. Joe Sullivan, Plant Facilities Manager, Lower Kuskokwim School District.

Mr. Mike Franks, Plant Facilities, Lower Kuskokwim School District.

SITE EVALUATION

In order to confirm and investigate the information received, a site evaluation was performed on August 27. The following information was accumulated during the evaluation, for which LKSD supervising personnel were present.

OCCUPATIONAL SITE:

The utilidor was being constructed for the high school in Bethel. The school, LKSD administrative offices, and LKSD supply trailers were located in the general vicinity. The utilidor was being constructed below the natural grade and passed beneath the boardwalk connecting the school's entrance and the LKSD offices. The site at which the wood preservative was being applied was located outside, adjacent to the utilidor and school. At the time of the evaluation, the utilidor project was halfway completed. School had been in session since August 21.

CHEMICAL IDENTIFICATION AND STORAGE:

The wood preservative was described as being "Penta 10 to 1 Concentrate" as per the LKSD purchase order. It was obtained through Commercial Buyers and Expeditors, Linwood, WA. A total of one 55 gallon drum of PCP chemical concentrate was received. The 55 gallon drum, two uncovered 5 gallon containers of diluted PCP, and two paint brush rollers were being stored outside, at the site where application was being performed. The only label and identification noted, was the stenciled word "Pentachlorophenol" on the 55 gallon drum.

METHOD OF APPLICATION:

The application of PCP began the second week of July, 1984. Prior to application, the PCP was diluted 10:1 with diesel fuel. The wood was treated prior to being used for utilidor construction.

Initially, PCP was applied using a power sprayer. One employee sprayed while other employees assisted by rotating treated and untreated wood for chemical application.

After two to four days, the spraying operation was discontinued due to misting of the chemical. Employees applying the chemical, as well as those working in supply trailers down wind, complained of tastes and odors from the misting effect. The operation then changed to a roll-on application, using long handled paint roller type brushes.

SAFETY EQUIPMENT AND PRECAUTIONS UTILIZED:

It was reported that prior to beginning PCP application, LKSD provided two to three training sessions for employees. Instruction as to how to use equipment, apply the chemical, and precautions were provided.

During the spraying operation, the sprayer was instructed to wear rubber gloves, rubber boots, and a supplied - air respirator. A compressor, located up wind from the application site, provided air to the respirator. Employees rotating the wood for treatment were instructed to stay 25 - 30 feet up wind during spraying. Assisting employees were instructed to wear rubber boots, rubber gloves, and dust type filter masks. During the rolling operation, employees were instructed to wear rubber boots, rubber gloves, and dust type filter masks.

It was reported that safety equipment was not always worn. Reports included: spraying without using the supplied - air respirator, PCP soaking through gloves and clothing, and undiluted PCP on hands while mixing.

While performing the site evaluation, preparations were being made for relocation of the PCP supply to a locked LKSD Quon'set Hut, so that it would be inaccessible to unauthorized personnel. LKSD personnel were also considering using the hut for PCP application. LKSD was also in the process of ordering rubberized suits to be worn while applying PCP.

RECOMMENDATIONS:

During the site evaluation, the following recommendations were provided:

1. Continue as planned to relocate the PCP supply to a locked area so that it would be inaccessible to unauthorized personnel and the general public. Employees relocating the PCP had already been instructed to wear protective clothing, including rain suits.
2. All storage containers should be sealed. The containers should be labeled as a health hazard. The chemical and containers should not be disposed of.
3. Continue to order safety equipment. All safety equipment should be N I O S H approved for use with PCP.
4. Suspend all application and treatment of wood with PCP, until the proper recommendations for safe and appropriate application can be provided.

PRODUCT INFORMATION

The manufacturer of the PCP was American Tar Company, Seattle, WA. The following information was provided by a sales representative:

Product Number: 1410

Contents: 43% Pentachlorophenol, 57% Mineral Spirits

Dilution: One gallon of Penta 10 to 1, with 10 gallons of any mineral or petroleum distillate. After proper dilution, the solution contains 5% PCP and considered ready to use.

Recommended Application: Brush on, Roll on, or dip method. Spraying is not recommended. Apply in a well ventilated area wearing protective gloves and goggles.

HEALTH HAZARDS

Pentachlorophenol is a highly poisonous substance and may enter the body through ingestion, inhalation and contact with the eyes or skin. According to the NIOSH/OSHA Occupational Health Guidelines for Chemical Hazards publication 81-123, Occupational Health Guideline for Pentachlorophenol, Summary of Toxicology,

"Pentachlorophenol readily penetrates the skin; systemic intoxication is cumulative and has been fatal. Intoxication is characterized by weakness, anorexia, weight loss, and profuse sweating; there may also be headache, dizziness, nausea, vomiting, dyspnea, and chest pain."

The guidelines further state that individuals with preexisting liver or kidney dysfunctions are more susceptible to intoxication. Skin irritation may occur from prolonged or repeated exposures to solutions as dilute as 1% (see attachment for further information). According to other sources (see previous section), PCP is a suspected carcinogen, and a known mutagen and teratogen.

SUMMARY OF MEDICAL FINDINGS

The following information was obtained from PCIS's, the attending physicians, and during the site evaluation. All but two patients were seen at the Public Health Service Hospital. Due to their non-beneficiary status, the others were seen at the Bethel Family Clinic. Renal and liver function tests were performed on all six patients. In all six patients, renal functions were found to be normal. None were reported to have had Viral Hepatitis B, or be heavy consumers of alcohol. At least four were known to have had current hepatitis B immunizations.

Of the six patients, three were heavily involved in the spray application of PCP. Liver dysfunction tests indicated mild and moderate degrees of liver dysfunction. Two were known to have had current hepatitis B immunizations. Ages ranged between 23 and 27 years, and all were males.

It was reported that all three sprayers, sprayed for prolonged periods without using the supplied - air respirator, or while using dust type masks for protection. Patient number 1 sprayed for one day without any protection.

Patient numbers 2 and 3 reported smelling and tasting the chemical, as well as it penetrating their clothing.

Patient number 2 also reported he was involved in the spray application only, lasting for three days. He also reported a past dermatitis on his thigh area from chemical exposure.

Patient number 3 also reported contaminating his hands with undiluted PCP during mixing. It was also reported that he had been involved in the rolling application of PCP, and had also worked for the city applying PCP in the past.

Symptoms reported, the dates they were reported, and the test results are listed below:

Patient No. 1 August 27

Symptoms: Weakness, anorexia, sweating, coughing for a few days

Test Results: Mild liver dysfunction

Patient No. 2 August 27

Symptoms: Nausea, anorexia, profuse sweating, headache, diarrhea

Test Results: Mild liver dysfunction.

Patient No. 3 August 24 and 27

Symptoms: Nausea, mild anorexia, full feeling in stomach, jaundice symptoms progressing to major nausea, anorexia and jaundice by August 30.

Test Results: Moderate liver dysfunction. Additional testing for Hepatitis A and B were performed. Results for Hepatitis A were negative. Results have not yet been received from Hepatitis B testing.

Two of the remaining patients, patient numbers 4 and 5, were only involved in the rolling application of PCP. The other, patient number 6, may have been slightly involved in both spraying and rolling, but was primarily a supervisor. Liver dysfunction tests indicated a mild liver dysfunction in only patient number 6. Ages ranged from 17 to 26, and all were males. Two were known to have current hepatitis B immunizations.

Patient number 4 reported not wearing a dust mask at first, but began wearing it after getting dizzy. He also reported PCP soaking through clothing and gloves.

Patient number 5 reported wearing the dust mask and gloves, but also getting PCP on his hands and clothing.

Symptoms reported, the dates they were reported, and the test results are listed below:

Patient No. 4 August 27

Symptoms: Slightly nauseated, mild anorexia

Test Results: Normal liver function

Patient No. 5 August 27

Symptoms: Slightly nauseated

Test Results: Normal liver function

Patient No. 6 August 27

Symptoms: None reported

Test Results: Mild liver dysfunction

All patients reported symptoms to occur on or about the time of exposure. Exact dates were not provided.

CONCLUSION

Although not conclusive, the information in this report supports the conclusion that LKSD employees were highly suspected of being overexposed to PCP during the application of a wood preservative. The three employees involved in the spray application seemed to be most affected, reporting symptoms characteristic of PCP intoxication. This was also supported by the liver dysfunction common to all three. Of the three patients, patient number 3 was the most severely affected.

The two employees involved in the rolling application of PCP reported mild symptoms, and were found not to have liver dysfunctions. These employees were suspected of not being exposed to PCP to the extent of those involved in the spray application. The last employee may have been slightly involved in both rolling and spraying, but did not report symptoms and did have liver dysfunction.

The following circumstances were determined to be contributory to PCP overexposure:

1. PCP was not applied correctly or safely, particularly during the spray application.
2. Employees were not wearing the proper respiratory, eye, hand and bodily protective equipment.
3. Employees were not aware of the health hazards associated with PCP, or the importance of safety equipment.
4. Employees were not properly supervised during PCP application.

Additional factors were noted as presenting unsafe conditions: PCP was applied and stored in a school area and containers were not labeled as to their contents or associated health hazards.

Other factors which may have contributed to chemical exposure include: the actual percent concentration of PCP applied by employees, the type of protection and methods utilized during the dilution of the 43% PCP, the type of power sprayer used and the concentration of PCP in the air at the time of spraying, and the manner in which treated wood was subsequently handled and the degree to which it may have contributed to the cumulative effects.

In order to conclusively determine occupational overexposure to PCP, chemical analysis of blood and urine samples would be required of all employees. At present, samples are being obtained for submission to Center for Disease Control, Atlanta, Georgia for analysis.

In a general sense, there are at least four additional considerations which deserve attention. First, because of the incidence of hepatitis B in Alaska, there exists an appreciable percentage of the population which may be more susceptible to a chemical intoxication of this nature, due to preexisting liver dysfunction. Second, the symptoms arising from such an intoxication could be mistakenly attributed by the recipient to other causes, resulting in possible repeated exposures and cumulative health effects. Third, PCP is widely used as a wood preservative and has not been restricted. However, it will become a restricted use pesticide in November, 1984. Finally, the synergistic effect of these considerations, as well as their independent importance, is cause for close surveillance.

RECOMMENDATIONS

The following recommendations are provided for use with pentachlorophenol. These guidelines should be part of a comprehensive plan, designed for the safe use of PCP, and should be initiated prior to beginning any application process:

1. Users of PCP should receive detailed and professional training, to include the importance of protective equipment and the associated health hazards (Training and certification will be required when PCP becomes a restricted use pesticide).
2. All personnel should receive medical examinations and screening prior to application. Personnel with impaired liver or kidney functions should not work with PCP. Those working with PCP on a regular and continual basis, should receive medical monitoring for possible cumulative health effects.
3. A system should be established for reporting accidental exposures.
4. The State of Alaska's Department of Labor should be consulted for guidelines as to how to safely handle, apply, and store PCP. This should also include recommendations as to the type of safety equipment for respiratory, eye, hand and bodily protection.
5. Application and storage sites should not be accessible to unauthorized personnel or the general public. All storage containers should be labeled.
6. Special precautions should be utilized when diluting PCP concentrates.
7. Precautions and safety equipment should also be utilized during the subsequent handling of treated materials.
8. Qualified supervision should be provided to employees working with PCP.

This incident of occupational exposure should receive further attention and follow-up. LKSD supervising personnel expressed an interest in receiving professional training and possible certification. Such training should be expanded to include other interested personnel, such as city and construction employees.



Mark A. Hamilton
Assistant Sanitarian Officer

cc: A-ESS

SUD, Bethel

SHD, Bethel

Dr. John Middaugh, State Epidemiologist, Dept. of Health and Social Services, State of Alaska

Mr. Bill Blythe, Industrial Hygienist, Dept. of Labor, OSHA

Mr. Corey Willis, ADEC, Region II

Mr. Joe Sullivan, Plant Facilities Manager, LKSD

Dr. Don Lehmann, Bethel Family Clinic

Mr. Bill Burgoyne, Pesticide Use Specialist, ADEC

Occupational Health Guideline for Pentachlorophenol

INTRODUCTION

This guideline is intended as a source of information for employees, employers, physicians, industrial hygienists, and other occupational health professionals who may have a need for such information. It does not attempt to present all data; rather, it presents pertinent information and data in summary form.

SUBSTANCE IDENTIFICATION

- Formula: C_5Cl_5OH
- Synonyms: PCP; penta
- Appearance and odor: Light brown solid with a pungent odor when hot.

PERMISSIBLE EXPOSURE LIMIT (PEL)

The current OSHA standard for pentachlorophenol is 0.5 milligram of pentachlorophenol per cubic meter of air (mg/m^3) averaged over an eight-hour work shift.

HEALTH HAZARD INFORMATION

• Routes of exposure

Pentachlorophenol can affect the body if it is inhaled, if it comes in contact with the eyes or skin, or if it is swallowed. It may enter the body through the skin.

• Effects of overexposure

Exposure to pentachlorophenol may cause irritation of the eyes and respiratory tract. Bronchitis has been reported to occur. Systemic effects from either a large exposure or repeated smaller exposures include weakness, loss of appetite, nausea, vomiting, shortness of breath, chest pain, excessive sweating, headache, and dizziness. In fatal cases the temperature is often very high and death may occur as early as three hours after the onset of symptoms. The risk of serious intoxication is greater in hot weather. Persons with decreased liver or kidney functions are more susceptible to poisoning from this chemical. Repeated exposure to pentachlorophenol may cause an acne-like skin rash and liver

damage. Commercial pentachlorophenol may be contaminated with dioxin compounds which are much more toxic than pentachlorophenol.

• Reporting signs and symptoms:

A physician should be contacted if anyone develops any signs or symptoms and suspects that they are caused by exposure to pentachlorophenol.

• Recommended medical surveillance

The following medical procedures are recommended and available to each employee who is exposed to pentachlorophenol:

1. Initial Medical Examination:

—A complete history and physical examination. The purpose is to detect pre-existing conditions that might place the exposed employee at increased risk, and to establish a baseline for future health monitoring. Examination of the cardiovascular system, eyes, upper respiratory tract, liver, and kidneys should be stressed. The skin should be examined for evidence of chronic disorders. Analysis of the urine for pentachlorophenol may be helpful in estimating the extent of absorption.

2. Periodic Medical Examination: The aforementioned medical examinations should be repeated on an annual basis.

• Summary of toxicology

Pentachlorophenol dust and mist cause irritation of the eyes and upper respiratory tract; absorption results in an increase in metabolic rate and hyperpyrexia; prolonged skin exposure causes an acneform dermatitis. Human exposure to dust or mist concentrations greater than $1 mg/m^3$ causes pain in the nose and throat, violent sneezing, and cough; $0.3 mg/m^3$ may cause some nose irritation; persons acclimated to pentachlorophenol can tolerate concentrations up to $2.4 mg/m^3$. Pentachlorophenol readily penetrates the skin; systemic intoxication is cumulative and has been fatal. Intoxication is characterized by weakness, anorexia, weight loss, and profuse sweating; there also may be headache, dizziness, nausea, vomiting, dyspnea, and chest pain. In fatal cases, the body temperature is often very high and death may occur

These recommendations reflect good industrial hygiene and medical surveillance practices and their implementation will assist in achieving an effective occupational health program. However, they may not be sufficient to achieve compliance with all requirements of OSHA regulations.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service Centers for Disease Control
National Institute for Occupational Safety and Health

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

death has occurred as early as 3 hours after the onset of symptoms. The risk of serious intoxication is increased during hot weather; persons with impaired liver or kidney function are more susceptible to the effects of pentachlorophenol. The dust, mist, and vapor cause eye irritation. Prolonged exposure of workers has caused an uneven dermatitis. 10 workers engaged in production of pentachlorophenol for 5 to 10 months developed a widely disseminated skin eruption characterized by small and large furuncles, brown pigmentation, and some ulceration. 7 workers also developed severe bronchitis, all but 1 worker still showed signs of extensive acne more than a year after cessation of exposure, and 4 still complained of bronchitis. On the skin, solutions of pentachlorophenol as dilute as 1% may cause irritation if contact is repeated or prolonged.

CHEMICAL AND PHYSICAL PROPERTIES

• Physical data

1. Molecular weight: 266.3
2. Boiling point (760 mm Hg): 311 C (592 F) (decomposes)
3. Specific gravity (water = 1): 2.0
4. Vapor density (air = 1 at boiling point of pentachlorophenol): Not applicable
5. Melting point: 182 - 190 C (360 - 374 F)
6. Vapor pressure at 20 C (68 F): 0.00017 mm Hg
7. Solubility in water, g/100 g water at 20 C (68 F): 0.002
8. Evaporation rate (butyl acetate = 1): Not applicable

• Reactivity

1. Conditions contributing to instability: None.
2. Incompatibilities: Contact with strong oxidizers may cause fires and explosions.
3. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen chloride, chlorinated phenols, and carbon monoxide) may be released when pentachlorophenol decomposes.
4. Special precautions: None.

• Flammability

1. Not combustible

• Warning properties

1. Odor Threshold: The AIHA *Hygienic Guide* states that pentachlorophenol has a characteristic odor. No quantitative information is available, however, concerning the odor threshold of this substance.

2. Irritation Levels: The *Documentation of TLVs* states that "dusts are particularly irritating to the eyes and nose, in concentrations appreciably greater than 1 mg/m³, but some irritation of the nose may occur at 0.3 mg/m³. Hardened workers can tolerate up to 2.4 mg/m³."

3. Evaluation of Warning Properties: Through its irritant effects, pentachlorophenol can be detected within three times of the permissible exposure limit. For the purposes of this guideline, therefore, pentachlorophenol is treated as a material with good warning

properties.

MONITORING AND MEASUREMENT PROCEDURES

• General

Measurements to determine employee exposure are best taken so that the average eight-hour exposure is based on a single eight-hour sample or on two four-hour samples. Several short-time interval samples (up to 30 minutes) may also be used to determine the average exposure level. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

• Method

An analytical method for pentachlorophenol is in the *NIOSH Manual of Analytical Methods*, 2nd Ed., Vol. 4, 1973, available from the Government Printing Office, Washington, D.C. 20402 (GPO No. 017-033-00317-3).

• Gleason, M. N., Gosselin, R. E., Hodge, H. C., and Smith, R. P. *Industrial Toxicology of Commercial Products* (3rd ed.), Williams and Wilkins, Baltimore, 1969.

RESPIRATORS

• Good industrial hygiene practices recommend that engineering controls be used to reduce environmental concentrations to the permissible exposure level. However, there are some exceptions where respirators may be used to control exposure. Respirators may be used when engineering and work practice controls are not technically feasible, when such controls are in the process of being installed, or when they fail and need to be supplemented. Respirators may also be used for operations which require entry into tanks or closed vessels, and in emergency situations. If the use of respirators is necessary, the only respirators permitted are those that have been approved by the Mine Safety and Health Administration (formerly Mining Enforcement and Safety Administration) or by the National Institute for Occupational Safety and Health.

• In addition to respirator selection, a complete respiratory protection program should be instituted which includes regular training, maintenance, inspection, cleaning, and evaluation.

PERSONAL PROTECTIVE EQUIPMENT

• Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent any possibility of skin contact with pentachlorophenol or liquids containing pentachlorophenol.

• If employees' clothing has had any possibility of being contaminated with pentachlorophenol or liquids containing pentachlorophenol, employees should change into uncontaminated clothing before leaving the work premises.

- Clothing which has had any possibility of being contaminated with pentachlorophenol should be placed in closed containers for storage until it can be discarded or until provision is made for the removal of pentachlorophenol from the clothing. If the clothing is to be laundered or otherwise cleaned to remove the pentachlorophenol, the person performing the operation should be informed of pentachlorophenol's hazardous properties.
- Where there is any possibility of exposure of an employee's body to pentachlorophenol or liquids containing pentachlorophenol, facilities for quick drenching of the body should be provided within the immediate work area for emergency use.
- Non-impervious clothing which becomes contaminated with pentachlorophenol should be removed immediately and not re-worn until the pentachlorophenol is removed from the clothing.
- Employees should be provided with and required to use dust- and splash-proof safety goggles where there is any possibility of pentachlorophenol or liquids containing pentachlorophenol contacting the eyes.
- Where there is any possibility that employees' eyes may be exposed to pentachlorophenol or liquids containing pentachlorophenol, an eye-wash fountain should be provided within the immediate work area for emergency use.

SANITATION

- Skin that becomes contaminated with pentachlorophenol should be immediately washed or showered with soap or mild detergent and water to remove any pentachlorophenol.
- Workers subject to skin contact with pentachlorophenol or liquids containing pentachlorophenol should wash with soap or mild detergent and water any areas of the body which may have contacted pentachlorophenol at the end of each work day.
- Eating and smoking should not be permitted in areas where pentachlorophenol or liquids containing pentachlorophenol are handled, processed, or stored.
- Employees who handle pentachlorophenol or liquids containing pentachlorophenol should wash their hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

COMMON OPERATIONS AND CONTROLS

The following list includes some common operations in which exposure to pentachlorophenol may occur and control methods which may be effective in each case:

| Operation | Controls |
|--|---|
| Formulation of preservatives, pesticides, and fungicides | Process enclosure; local exhaust ventilation; personal protective equipment |
| Application as a preservative for wood, starch, paint, adhesives, leather, latex, and oils; use in slime-algae control; use as a pesticide, herbicide, and snail control agent | Personal protective equipment |
| Manufacture of pentachlorophenol | Process enclosure; local exhaust ventilation; personal protective equipment |

EMERGENCY FIRST AID PROCEDURES

In the event of an emergency, institute first aid procedures and send for first aid or medical assistance.

• Eye Exposure

If pentachlorophenol or liquids containing pentachlorophenol get into the eyes, wash eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

• Skin Exposure

If pentachlorophenol or liquids containing pentachlorophenol get on the skin, immediately wash the contaminated skin using soap or mild detergent and water. If pentachlorophenol or liquids containing pentachlorophenol penetrate through the clothing, remove the clothing immediately and wash the skin using soap or mild detergent and water. If irritation is present after washing, get medical attention.

• Breathing

If a person breathes in large amounts of pentachlorophenol, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

• Swallowing

When pentachlorophenol or liquids containing pentachlorophenol have been swallowed and the person is conscious, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

• Rescue

Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency

rescue procedures. Do not become a casualty. Understand the facility's emergency rescue procedures and know the locations of rescue equipment before the need arises.

SPILL AND DISPOSAL PROCEDURES

- Persons not wearing protective equipment and clothing should be restricted from areas of spills until cleanup has been completed.
- If pentachlorophenol is spilled, the following steps should be taken.

1. Ventilate area of spill.
 2. Collect spilled material in the most convenient and safe manner and deposit in sealed containers for reclamation or for disposal in a secured sanitary landfill. Liquid containing pentachlorophenol should be absorbed in vermiculite, dry sand, earth, or a similar material.
- Waste disposal method:
Pentachlorophenol may be disposed of in sealed containers in a secured sanitary landfill.

REFERENCES

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RESPIRATORY PROTECTION FOR PENTACHLOROPHENOL

| Condition | Minimum Respiratory Protection* Required Above 0.5 mg/m ³ |
|---------------------------------------|--|
| Particulate or Vapor Concentration | |
| 2.5 mg/m ³ or less | Any chemical cartridge respirator with an organic vapor cartridge(s) and dust, fume, and mist filter(s), including pesticide respirators which meet the requirements of this class.** Any supplied-air respirator.** Any self-contained breathing apparatus.** |
| 25 mg/m ³ or less | Any chemical cartridge respirator with a full facepiece, an organic vapor cartridge(s), and dust, fume, and mist filter(s), including pesticide respirators which meet the requirements of this class. A gas mask with a chin-style or a front- or back-mounted organic vapor canister and dust, fume, and mist filter, including pesticide respirators which meet the requirements of this class. Any supplied-air respirator with a full facepiece, helmet, or hood. Any self-contained breathing apparatus with a full facepiece |
| 150 mg/m ³ or less | |

**If eye irritation occurs, full-facepiece respiratory protective equipment should be used.

Alaska State Legislature
Representative Nino Espinoza

Pouch W
Juneau, Alaska 99811
(907) 463-4992

1-2-11
Juneau, Alaska
9-11-11

HB 53 SOME OTHER FINES FOR OTHER MISDEMEANORS AND
VIOLATIONS FOR COMPARISON PURPOSES

You will receive a fine of \$5,000 for:

- concealing merchandise worth \$50 or more.
- issuing a bad check for \$50.00
- deceptive business practices (be careful when you sell your old car)
- misrepresenting the use of a propelled vehicle (of course the mileage is accurate, my grandmother only drove it to church on Sunday!)
- defrauding a creditor
- simulating legal process (be careful how you dun people who owe you money).

You will receive a fine of \$1,000 for:

- concealing merchandise of less than \$50 value.
- writing a bad check for less than \$50
- impersonating a public servant etc.

I hope this helps put the fines in HB 53, which deal with dangers to human life & limb, in proper perspective...

Original sponsors: Koponen, Goll,
Davis and Donley

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 53 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to violations of workplace safety
7 laws."

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

9 * Section 1. AS 18.60.095(a) is amended to read:

10 (a) An employer who wilfully or repeatedly violates a provision
11 of AS 18.60.010 - 18.60.105 that is applicable to the employer or a
12 standard or regulation adopted under AS 18.60.010 - 18.60.105 may be
13 assessed by the commissioner a civil penalty of not more than \$25,000
14 [\$10,000] for each violation.

15 * Sec. 2. AS 18.60.095(b) is amended to read:

16 (b) An employer who receives a citation for a serious violation
17 of a provision of AS 18.60.010 - 18.60.105 that is applicable to the
18 employer or of a standard or regulation adopted under AS 18.60.010 -
19 18.60.105 shall be assessed by the commissioner a civil penalty of not
20 less than [UP TO] \$1,000 and not more than \$10,000 for each violation.

21 For purposes of this subsection, a serious violation is considered to
22 exist if the violation creates in the place of employment a substan-
23 tial probability of death or serious physical harm. However, a seri-
24 ous violation is not considered to exist if the employer did not, and
25 could not with the exercise of reasonable diligence, know of the
26 presence of the violation.

27 * Sec. 3. AS 18.60.095(c) is amended to read:

28 (c) An employer who receives a citation for a violation of a
29 provision of AS 18.60.010 - 18.60.105 that is applicable to the

1 employer or [OF] a standard or regulation adopted under AS 18.60.010 -
2 18.60.105, and the violation is specifically determined not to be of a
3 serious nature, may be assessed by the commissioner a civil penalty of
4 up to \$5,000 [\$1,000] for each violation.

5 * Sec. 4. AS 18.60.095(d) is amended to read:

6 (d) An employer who fails to correct a violation within the
7 period permitted for its correction for which a citation has been
8 issued may be assessed by the commissioner a civil penalty of not more
9 than \$10,000 [\$1,000] for each day during which the failure to correct
10 the violation continues.

11 * Sec. 5. AS 18.60.095(e) is amended to read:

12 (e) An employer who knowingly [WILFULLY] or repeatedly violates
13 a provision of AS 18.60.010 - 18.60.105 that is applicable to the
14 employer or a standard or regulation adopted under AS 18.60.010 -
15 18.60.105, and the violation causes death to an employee, upon con-
16 viction, is punishable by a fine of not more than \$150,000 [\$10,000],
17 or by imprisonment for not more than six months, or by both. However,
18 upon a second conviction after a prior conviction for a violation
19 causing death, an employer is punishable by a fine of not more than
20 \$500,000 [\$20,000], or by imprisonment for not more than one year, or
21 by both.

22 * Sec. 6. AS 18.60.095(f) is amended to read:

23 (f) A person who knowingly makes a false statement, representa-
24 tion, or certification in an application, record, report, plan or
25 other document filed or required to be maintained under AS 18.60.010 -
26 18.60.105, upon conviction, is punishable by a fine of not more than
27 \$25,000 [\$10,000], or by imprisonment for not more than six months, or
28 by both.

29 * Sec. 7. AS 18.60.095(g) is amended to read:

1 (g) An employer who violates the posting requirements of this
2 chapter shall be assessed by the commissioner a civil penalty of up to
3 \$2,000 [\$1,000] for each violation.

4 * Sec. 8. The amendments made by this Act apply to violations that
5 occur on or after the effective date of this Act.

Offered: 1/30/87
 Referred: Judiciary and
 Finance

Original sponsors: Koponen, Goll
 and Davis

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
 SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 53 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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4 occur on or after the effective date of this Act.

Introduced: 1/13/87
Referred: Health, Education &
Social Services, Judiciary and
Finance

1 IN THE HOUSE

BY KOPONEN AND GOLL

2

HOUSE BILL NO. 53

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

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