

**HB**

**120**

# Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

## MEMORANDUM

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Date: April 15, 2005

To: Senator Fred Dyson

From: Representative Peggy Wilson *pw*

Re: HB 120 Health Care Employee Protection

HB 120 will remove two exemptions for intraoral procedures and for health care organizations with fewer than 25 full-time employees. This bill will bring the Alaska standards into compliance with federal standards for the handling of needles and other sharp instruments. Removing these exemptions is not expected to have a significant impact as these organizations currently do comply with the federal standards. I request that you schedule HB 120 for a hearing before the Senate HESS Committee at your earliest convenience.

I am attaching the most recent sponsor statement, current and all previous versions of the bill, letters of support, and sectional analysis.

Thank you for your consideration.

# ALASKA STATE LEGISLATURE



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**REPRESENTATIVE PEGGY WILSON  
HOUSE DISTRICT 2**

## **Sponsor Statement HB 120**

**" An Act relating to safety devices for needles and sharp instruments to prevent the spread of bloodborne pathogens in Alaska's health care workers and establishing an effective date. "**

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This bill repeals two exemptions from Alaska's bloodborne pathogen protection standards to bring Alaska standards into compliance with federal standards. The bill removes exemptions for intraoral procedures and for health care organizations with fewer than 25 full-time employees. Removing these exemptions is not expected to have a significant impact, as most of these organizations have already made the necessary efforts to minimize exposure to bloodborne pathogens by complying with state and federal standards. The risks associated with bloodborne pathogen exposure demand clear and consistent standards throughout health care organizations in Alaska.

Sectional Analysis  
House Bill 120 Health Care Employee Protection

**Sectional Analysis**

**Section 1** repeals AS 18.60.880(h), which exempts operations where the primary use of needles and other sharps is for intraoral procedures from requirements to use safety devices. Removing this exemption will help ensure that the risk of spreading bloodborne pathogens in dentist and oral surgery offices is minimized.

**Section 2** repeals AS 18.60.890(3)(B), which exempts employers with fewer than 25 full-time employees from the requirements to use safety devices to help ensure that the risk of spreading bloodborne pathogens in health care occupations is minimized in Alaska.

**Sections 1 and 2:**

These exemptions conflict with federal regulations (29 CFR 1910.1030) governing occupational protections associated with the use of needles and other sharp devices, as the federal regulations do not contain similar exemptions.

AS 18.60.880(h) and AS 18.60.890(3)(B), as they currently stand, are in direct conflict with AS 18.60.030(6) and Section 18 of the Occupational Safety and Health Act of 1970 (29 USC § 667), which mandate the Alaska Occupational Safety and Health (AKOSH) program to be "at least as effective as" the U.S. Department of Labor, Occupational Safety and Health Administration program. Not only does this conflict create confusion for employers who are not sure which standard to follow, it also jeopardizes federal grant funds for the AKOSH program.

**Section 3** establishes an immediate effective date.

**Other Speaking Points/Issues:**

AS 18.60.880 and AS 16.60.890 were enacted in 2000. The federal regulations on this same subject (29 CFR 1910.1030) were printed in the Federal Register on January 18, 2001 and, in accordance with 8 AAC 61.1010(b), the State of Alaska adopted these federal regulations by reference in June of 2001.

The federal regulations on bloodborne pathogens contain requirements for annual protective device evaluation and require the employer to seek input from front-line health care employees. The Alaska standard for product evaluation is more specific in terms of the degree of front-line health care participation. The Alaska Nurse's Association did not support completely repealing the current statutes and wanted to maintain some of the state-specific requirements that they had worked hard to achieve. Consequently, this proposal only repeals the two exemptions causing a conflict with federal standards.

AS 18.60.880(h) and AS 18.60.890(3)(B), as they currently stand, are in direct conflict with AS 18.60.030(6) and Section 18 of the Occupational Safety and Health Act of 1970 (29 USC § 667), which mandate the Alaska Occupational Safety and Health (AKOSH) program to be "at least as effective as" the U.S. Department of Labor, Occupational Safety and Health Administration program. The state of Alaska currently receives grant funding from federal OSHA to fund the majority of the AKOSH program. Failure to abide by federal minimum standards jeopardizes federal grant funds for the AKOSH program.

The impact of this legislative proposal is not expected to be significant for two reasons. Many of the businesses currently exempt under Alaska law are already complying with the federal requirements. The participation required for front line health care workers in evaluating protective devices should not pose a significant impact.

In addition to the Department of Labor and Workforce Development's support, there is other support for this legislative repeal. Camille Soleil and John Bitney of the Alaska Nurse's Association and Royann Royer of the Alaska Dental Hygienists Association have pledged support for this bill. Jim Towle of the Alaska Dental Society has been provided with a copy of the proposed legislation and has not voiced opposition. Richard Terrill, Regional Administrator for federal OSHA, is willing to testify in support of the bill due to the conflict created by the current statute and the need to safeguard all health care workers from injuries related to the use of sharps and needles.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: **HB120-DOLWD-OSH-02-04-05**  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: **Labor and Workforce Development**  
 Title: **Health Care Employee Protection** RDU: **Labor Standards and Safety**  
 Component: **Occupational Safety and Health**  
 Sponsor: **Representative Wilson**  
 Requester: **House HES** Component Number: **970**

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: None  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary.)

There is no anticipated fiscal impact as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone: 465-4855  
 Division: Labor Standards and Safety Date/Time: 2/4/05 9:43 AM  
 Approved by: Greg O'Claray, Commissioner Date: 2/4/2005  
 Agency: Department of Labor and Workforce Development

# STATE OF ALASKA

Department Of Labor and Workforce Development

FRANK H. MURKOWSKI, GOVERNOR

P. O. Box 21149  
Juneau, AK 99802-1149  
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## OFFICE OF THE COMMISSIONER

March 29, 2005

The Honorable Peggy Wilson  
Alaska State Legislature  
Capitol Building, Room 104  
Juneau, AK 99801

Dear Representative Wilson:

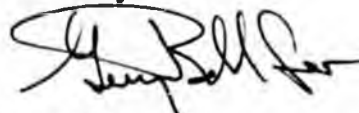
During the March 22, 2005, House Labor and Commerce Committee hearing regarding HB 120, Representative Rokeberg asked whether dental instruments used for cleaning teeth would be required to have protective devices under this proposed legislation. I discussed this question with the Labor Standards and Safety Division, Occupational Safety and Health Industrial Hygienists who specialize in health care.

It is important to note that there are several common sense reasons why engineered protective devices are not required as listed in AS 18.60.880(b)(1)(A)-(E) (copy enclosed). There are some dental instruments used for cutting that would require evaluation on an annual basis to determine if there are appropriate protective devices available for use. These instruments are currently equipped with a plastic cover to minimize the risk of exposure and there is no other known protective device on the market for these types of instruments.

Most teeth cleaning instruments are scrapers and do not have sharp points or cutting surfaces that would present a recognized sharps injury risk. Consequently, these scraping instruments would not need to be evaluated for use of engineered sharps injury protective devices. The types of devices that must be evaluated are listed in AS 18.60.880(a)(1)-(8) (copy enclosed).

I hope this resolves the question posed by Representative Rokeberg. If you need any additional assistance with this bill, please let me know.

Sincerely,



Greg O'Claray  
Commissioner

Enclosure

cc: Grey Mitchell, LSS Director

Sec. 18.60.880. Needle stick and sharps injury protections for health care workers.

(a) An employer shall conduct product evaluations of needleless systems and sharps with engineered sharps injury protections. The product evaluations shall include the categories of devices that are used in the employer's facilities. For each category of device, the product evaluations shall be performed by front-line health care workers representing all wards and medical specialties where the devices are used. The evaluation committee described in (g) of this section shall determine the amount of time necessary for the front-line health care workers to perform product evaluations under this subsection. **The categories of devices to be evaluated under this subsection include**

- (1) IV catheters;
- (2) IV access devices and IV connectors;
- (3) vacuum-tube blood collection devices;
- (4) blood-drawing devices including phlebotomy needle and tube holders, butterfly-type devices, and syringes and other similar devices;
- (5) syringes used for purposes other than blood drawing;
- (6) suture needles;
- (7) scalpel devices; and
- (8) any other category of device used at the employer's facilities where there is a sharps injury risk.

(b) The department shall, by regulation, adopt a standard concerning the use of needleless systems and sharps with engineered sharps injury protections for devices listed in (a) of this section. The regulations must provide that

(1) needleless systems and sharps with engineered sharps injury protections must be included as engineering and work practice controls; **however, the needleless systems and sharps with engineered sharps injury protections are not required if**

- (A) the devices are not available in the marketplace;
- (B) the evaluation committee described in (g) of this section determines by means of objective product evaluation criteria that use of the devices may jeopardize patient safety if used for
  - (i) a class or type of procedure; or
  - (ii) a class or type of procedure when performed on a certain type of patient;
- (C) a certified or licensed health care worker directly involved in the patient's care determines, in the reasonable exercise of clinical judgment, that use of the devices will jeopardize the patient's safety or the success of the particular medical procedure involving the patient; a health care worker who makes this determination shall file a report with the employer, in writing, including the date, time, patient, and procedure involved, and a statement of the reasons why the employee failed to use an approved needleless system or sharp with engineered sharps injury protections;
- (D) the employer can demonstrate by means of objective product evaluation criteria that use of the devices is not more effective in preventing exposure incidents than the alternative used by the employer; or
- (E) the employer can demonstrate, with respect to an engineering control that has not been available in the marketplace for at least 12 months, that reasonably specific and reliable information is not available regarding the safety performance of the engineering control for the employer's procedures, and that the employer is actively determining by means of objective product evaluation criteria whether the use of the engineering control will reduce the risk of exposure incidents occurring in the employer's workplace;



**Alaska Dental Society, Inc.**

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The Honorable Norman Rokeberg  
House of Representatives  
State Capitol – Rm. 241  
Juneau, AK 99801+1182

30 March 2005

Dear Rep. Rokeberg:

Thank you for your concern regarding the impact of HB-120 on the dentists and dental offices of Alaska.

Compliance with OSHA standards regarding the safe handling of "sharps" has been a concern of organized dentistry for many years. As you know, in the daily practice of dentistry, it is the dentists who are most at risk from injury by sharp instruments that can spread blood borne pathogens. Whereas physicians often delegate procedures that entail the use of hypodermics and other "sharp" instruments to nurses, physicians' assistants, phlebotomists and others, it is the dentist who must use needles, drills and other surgical instruments in the treatment of patients.

The federal OSHA standards recognize this reality and organized dentistry has worked diligently to ensure compliance with federal OSHA standards by dentists.

After reviewing HB-120, the officers of the Alaska Dental Society have instructed me to inform you that the society will not oppose this bill. This is based upon the belief that State of Alaska OSHA officials will recognize that it is the dentist who is the front-line provider most at risk in the dental office. In most dental offices in Alaska, the dentist who owns and manages the practice is the front-line provider most at risk and therefore has the most compelling interest in maintaining full compliance with reasonable standards that respect the ability of the doctor to provide treatment in an environment that is safe for the patient, the doctor and auxiliary staff.

Respectfully yours,

A handwritten signature in black ink, appearing to read "James R. Towle".

James R. Towle  
Executive Director

# SENATE COMMITTEE REPORT

DATE: 4/13/05

FURTHER: Labor and Commerce

DATE TURNED  
IN TO OFFICE: 4.27.05

Health, Education and Social Services Committee considered

HOUSE BILL NO. 120

## HB 120 HEALTH CARE EMPLOYEE PROTECTION

"An Act relating to safety devices and sharp instruments for the prevention of the spread of bloodborne pathogens in health care employees; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/18			X	1
LWF	2/4			X	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
			✓	
CHAIR:	✓			