

HB

121



Alaska State Legislature

Representative Peggy Wilson
House District 2
Putting Alaska's Families First

MEMORANDUM

DATE: May 4, 2007

TO: Senator Hollis French, Chair
Senate Judiciary Committee

FROM: Representative Peggy Wilson, Chair *PW*
House Health Education and Social Services Committee

SUBJ: CS House Bill 121(L&C) am [25-LS0501\E.A] – Request for Hearing

HB 121 is an act relating to the release of information in individual workers' compensation records and providing for an effective date.

I respectfully request a hearing for this bill at your earliest convenience. Attached you will find the current version of this bill, relative sponsor statement, sectional analysis, accompanying positive fiscal note prepared by the Department of Labor and Workforce Development (DOLWD) based on this version of the bill and two prior zero fiscal notes. I've also included additional backup in the form of an email, news story and letters of concern.

Even though I have attached the DOLWD fiscal note dated April 10, 2007 in the amount of \$292,300, the note itself was never transmitted from the last committee of referral – Senate Labor and Commerce Committee. I have also included a draft CS on this bill for your consideration. The work draft is entitled: 25-LS0501\W by Bailey on 5/1/07.

Please let Cliff Stone of my staff know if there is anything else we can provide. Since this bill has picked up a last minute referral to the Senate Judiciary Committee, I would appreciate any due consideration to hear this bill in an expeditious manner.



Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

SPONSOR STATEMENT

Committee Substitute House Bill 121(L&C) am

“An Act relating to release of information in individual workers’ compensation records; and providing for an effective date.”

With the call for more transparency in government, it is equally important to protect personal information from falling into the wrong hands. In this day and age of computers and extensive databases, government agencies have the potential to accumulate a tremendous amount of information on their employees.

Under the Alaska Division of Workers’ Compensation, some personal information is considered public record since it is not specifically prohibited by state statute. CSHB 121 will correct this oversight by prohibiting the release of the employee’s social security number, electronic mail address, and telephone number contained on any of the divisions’ files, the Workmen’s Compensation Board’s files, and the Workers’ Compensation Appeals Commission. As amended on the House floor, employee names and addresses can still be released to the general public.

Currently, some of this personal information regarding employees who file workers’ compensation claims can be and has been released for public inspection. For example, a private company outside of Alaska has been requesting the names and addresses of injured workers. They have then used that information for direct marketing purposes of one kind or another.

This practice is very disturbing considering that identity theft is on the rise and a scourge on our society. It should be the right of any individual to keep personal information as cited above confidential. This data should not be revealed without the consent of that individual. This bill does add a provision to allow such disclosure, but only after the employee signs an affidavit to that effect.

March 21, 2007

25-LS0501\E.A



Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

SECTIONAL ANALYSIS

Committee Substitute House Bill 121(L&C) am

“An Act relating to release of information in individual workers’ compensation records; and providing for an effective date.”

CSHB 121 amends Title 23 under the Labor and Workers’ Compensation Act. It deals specifically with the section for release of information.

Section 1. Amends AS 23.30.107(b) with language specifying that an employee’s social security number, electronic mail address, and telephone number contained within the employee’s file under the Division of Workers’ Compensation or held by the Workmen’s Compensation Board or held by the Workers’ Compensation Appeals Commission are not public records subject to public inspection.

Section 2. Amends the statute reference above by adding a subsection (d). This provision allows for an employee to authorize the Division of Workers’ Compensation, the Board, or the Commission to disclose his or her personal information as described above. This will be accomplished by the employee signing a declaration on a form provided by the division.

Section 3. This bill has an immediate effective date. In effect, the bill becomes law the day after it is signed by the governor.

March 21, 2007

25-LS0501\E.A

Jan-May, Juneau: State Capitol • Juneau, AK 99801-1121 • ph: (907) 465-3824 • fax: (907) 465-3175

June-Dec, Wrangell: PO Box 109 • Wrangell, AK 99929 • ph: (907) 874-3088 • fax: (907) 874-3055

Rep Peggy Wilson@legis.state.ak.us • <http://www.akRepublicans.org/wilson/> • 1-800-686-3824

HB 121 – Workers Compensation Records

Background info & Notes

- As originally introduced in 2005, SB169 prohibited the Division of Workers' Compensation from assembling or providing information relating to individual records outside the scope of the Workers' Compensation Act.
- Eventually that language was incorporated into SB 130 [FSSLA 05] Located in Section 39. Signed into law on 9/15/05 (24th Legislature).
- This omnibus bill amended Title 21 and 23 to increase efficiency and flexibility. Among others, it created a task force on Workers' Compensation, mandates that an employee will be insured, created a Workers' Compensation Benefits Guaranty Fund, created a Workers' Compensation Appeals Commission, created several new positions within the Division of Workers' Compensation to carry out the changes made by the legislature.
- Specifically a subsection (c) was added to AS 23.30.107 – Release of Information. It reads as follows: **The division may not assemble, or provide information respecting, individual records for commercial purposes that are outside the scope of this chapter.**
- In a recent court case; *O'Bryan Baun Cohen Kuebler v. Lisankie et al.*, 1JU-05-557 CI, the Alaska Superior Court found the above statute reference to be ambiguous. Further the Court found that the State did not submit any solid legislative intent or history on the matter.
- HB 121 is not an attempt to overturn this Court decision, it is simply to clarify the legislative intent as the Court opined.
- Remember, this same bill provides an opt-in provision in Sec. 2. If the employee wants to share their private information – they simply have to sign a declaration advising so.
- Furthermore, the day after this bill had its first committee hearing, a law firm in Michigan requested two years worth of private data from the Division of Workers' Compensation on workers claims from 18 different companies doing business in Alaska.
- Bottom line – This bill protects the privacy of individuals who have filed a claim under the Workers' Compensation Act.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

O'BRYAN BAUN COHEN KUEBLER,)
Plaintiff,

vs.

PAUL F. LISANKIE, DIRECTOR OF
DIVISION OF WORKERS'
COMPENSATION, DEPARTMENT OF
LABOR AND WORKFORCE
DEVELOPMENT, STATE OF
ALASKA, JOHN DOES 1-10,
EMPLOYEES OF THE STATE OF
ALASKA,
Defendants.

Case No. 1JU-05-557 CI

ORDER ON MOTIONS FOR SUMMARY JUDGMENT

Factual and Procedural History

This lawsuit is brought by the O'Bryan law firm to obtain information from the State of Alaska Department of Labor about Workers' Compensation claims. The dispute arose when the State refused to provide information it had previously been providing.

Between June and November 2004 the State responded to requests by O'Bryan for Report of Injury by providing lists of claimants and their addresses and phone numbers.

*Alaska Court System
Page 1*

However, in March 2005 when O'Bryan made a request for similar information the State refused to supply it.

When O'Bryan first asked the State in June 2004 to provide all Reports of Injury (ROI) listing Icicle Seafoods as the employer. The State notified O'Bryan that providing copies of 400 ROIs would be "a real burden" and attached a summary list of claimants, addresses and phone numbers with the hope that the summary would suffice. O'Bryan accepted the summary list in lieu of the 400 ROIs.

In August, September and November 2004, O'Bryan made three more requests for similar information. Although each request identified a different employer and employment period, the format of each request was essentially the same:

Please provide at our expense a list of all workers compensation claimants . . . including names, addresses, and phone numbers.

Each time, O'Bryan requested a list of all workers compensation claimants against an employer, including "names, addresses, and phone numbers." And, each time the State satisfied the request by providing the summary lists.

O'Bryan made another request in March 2005. Like the previous requests, the firm asked for a summary of the information in the same format:

Please provide at our expense a list of all workers compensation claimants for Icicle Seafoods and Trident Seafoods from the date of your last email attached. I would like their names, addresses, and phone numbers.

The State, however, advised O'Bryan that it would no longer supply any further claims information. The basis for this decision is unclear. O'Bryan says that the State explained that it would no longer do so because Richard Nielsen, an attorney representing seafood processors, had filed a complaint with the governor's office against the State.¹ The State denies that the sole basis of the denial was the Nielsen complaint letter.² The State says that "[t]he Director of the Division determined it was not appropriate to continue to create and provide summaries of information, and the request was denied."³

O'Bryan filed a letter of appeal on March 16, 2005. To date, the State has not responded to the appeal.⁴

O'Bryan filed a suit in superior court on June 6, 2005 seeking declaratory and injunctive relief. The State answered on July 25, 2005.

During the 2005 special session of the legislature, a new Workers Compensation scheme was considered and eventually enacted. That new scheme had a provision at AS 23.30.107(c) that said:

"The division may not assemble, or provide information respecting, individual records for commercial purposes that are outside the scope of this chapter."

That provision was effective on November 7, 2005.⁵

¹ Plaintiff's Ex. 7, p.2 and Ex. 8, p.1.

² Answer at 2.

³ Defendants' Reply to Opposition to Defendants' Cross Motion for Summary Judgment at 7.

⁴ Memorandum in Support of Motion for Summary Judgment at 4.

On November 23, 2005, O'Bryan's counsel sent the State's counsel a letter regarding the "Request for ROIs."⁶ The letter declared that it was O'Bryan who accommodated the State – rather than vice-versa – in accepting the summary information rather than the ROI forms. The letter also outlined plaintiff's arguments that another statute, AS 23.30.260⁷, is inapplicable to claims under federal law. The letter also contained the following statement:

My client is perfectly willing to accept actual copies of the ROI pursuant to AS 40.25 et seq. seq. in order to resolve this dispute. It was the State's desire to produce the compilation in lieu of copying the ROI's but if the State is unwilling to turn over the compilation, Plaintiff hereby requests that the State produce the ROI's for Icicle Seafoods and Trident Seafoods for the period from June of 2004 to the present. Please advise when we can expect to receive these documents.⁸

O'Bryan moved for summary judgment on December 7, 2005. The State opposed and cross moved for summary judgment. Both motions are now ripe for decision. The parties agree that there is no genuine issue of fact and this is a question of law to be decided by the court.

Summary Judgment

⁵ Ch. 10, SLA 2005.

⁶ Memorandum in Support of Motion for Summary Judgment, Exhibit 11 at 1 ("Letter").

⁷ AS 23.30.260. Penalty For Receiving Unapproved Fees and Soliciting.

A person is guilty of a misdemeanor, and upon conviction is punishable for each offense by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both, if the person

(1) receives a fee, other consideration, or a gratuity on account of services rendered in respect to a claim, unless the consideration or gratuity is approved by the board or the court; or

(2) makes it a business to solicit employment for a lawyer or for oneself in respect to a claim or award for compensation.

⁸ Letter, supra n. 9.

The court will grant summary judgment only if the record presents no genuine issues of material fact and "the moving party was entitled to judgment on the law applicable to the established facts."⁹ Once the movant has established a prima facie case, the non-movant, in order to prevent entry of summary judgment, is required to set forth specific facts showing that it could produce admissible evidence reasonably tending to dispute or contradict the movant's evidence, and thus demonstrate that a material issue of fact exists.¹⁰ The court construes facts offered in support of and in opposition to a motion for summary judgment in a light most favorable to the nonmoving party.¹¹

Public Records

Alaska has two primary public records statutes, AS 40.25.110 and AS 40.25.120, which govern the release of records to the general public. AS 40.25.110 provides that public records are open to inspection and copying. It states in relevant part:

"Unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public under reasonable rules during regular office hours."¹²

The Alaska Supreme Court has noted that "[t]here is a strong public interest in disclosure of the affairs of government," and "[sections] .110 and .120 articulate a broad

⁹ Newton v. Magill, 872 P.2d 1213, 1215 (Alaska 1994).

¹⁰ McGlothlin v. Municipality of Anchorage, 991 P.2d 1273, 1277 (Alaska 1999).

¹¹ Beileard v. State, 896 P.2d 230, 233 (Alaska 1995).

¹² AS 40.25.110 (a).

policy of open records."¹³ Courts have characterized the right of citizen access to public records as a "fundamental right."¹⁴

Section 40.25.120 restates the general rule of availability, but also sets out the exceptions to the public's right to inspect a public record. It states these exceptions, including records made secret by law:

Every person has a right to inspect a public record in the state, including public records in recorders' offices except:

...

(4) records required to be kept confidential by a federal law or regulation or by state law.¹⁵

To further the legislative policy of broad public access, courts narrowly construe any exceptions.¹⁶ The term "state law" in AS 40.25.120 (4) refers to any statute protecting the confidentiality of records. It also covers any constitutional provision, including, most notably, the right to privacy,¹⁷ as well as the executive privilege doctrine, and other privileges.¹⁸ The Alaska Supreme Court also has indicated that the reference to state law includes common law. The common law on public inspection of government records, as developed in other jurisdictions and acknowledged in Alaska, provides that an

¹³ Gwich'in Steering Committee v. State, Office of the Governor, 10 P.3d 572, 578 (Alaska 2000).

¹⁴ Id.

¹⁵ AS 40.25.120 (4).

¹⁶ See, e.g., Doe v. Alaska Superior Court, 721 P.2d 617, 622 (Alaska 1986).

¹⁷ ALASKA CONST. art I, § 22.

¹⁸ See, e.g., KNUTH, MARGO, INSPECTION AND DISCOVERY OF STATE RECORDS IN ALASKA, 4 ALASKA L. REV. 277, 280 (1987).

inspection should be denied when a demonstrable need for confidentiality outweighs the public interest in disclosure.¹⁹

Before November 7, 2005

The State has stated no credible reason for refusing to disclose the information requested prior to November 2005.

Without some legitimate reason under the law, the State cannot deny a request to provide information that it has granted in the past. The Division Director's decision, after the complaint to the Governor's office, has not been shown to have a legitimate basis. Indeed it hasn't been shown to have any basis.

O'Bryan had been using the names and addresses of persons injured on the job to send letters to the injured persons telling them that they may have claims for other than Workers Compensation and that they could receive additional information if they wanted by contacting O'Bryan.

The State suggests that providing the information to O'Bryan would be unlawful because of prohibitions against lawyers engaging in solicitation. The U.S. Supreme Court disagrees.²⁰ Court Rules in Alaska and Michigan governing the practice of law do not prohibit this information being used in the manner that O'Bryan has used it. Rule 7 of the Alaska Rules of Professional Conduct for lawyers does not prohibit letters sent to persons

¹⁹ Mun. of Anchorage v. Daily News, 794 P.2d 584, 590 (Alaska 1990).

²⁰ Shapiro v. Kentucky Bar Ass'n, 486 US 466 (1988).

giving them information of possible legal remedies as provided by O'Bryan in this case. Rule 7.3(a) of the Michigan Rules of Professional Conduct expressly provides that the term "solicit" does not include the sending of "truthful and non-deceptive letters to potential clients known to face particular legal problems as elucidated in Shapiro v Kentucky Bar Ass'n, 486 US 466."²¹

The State argues that the November 23, 2005 letter from O'Bryan's counsel to the State's counsel constituted a new request, prohibited under the new law AS 23.30.107(c). The court finds that the letter is not a new request but rather it is an offer to compromise the lawsuit. In the letter, O'Bryan articulated the consideration that it would be willing to back to the original request and accept the ROI's "in order to resolve the dispute."²² O'Bryan offered to accept the ROI if the State was unwilling to provide the summary lists of names, addresses and phone numbers.

Evidence of offers to compromise a claim "which was disputed as to either validity or amount is not admissible to prove liability for or invalidity of the claim or its amount."²³ The letter from O'Bryan's counsel does not convert the March 2005 request into a new request that would fall under the prohibitions of AS 23.30.107(c), passed 8 months later.

²¹ MICHIGAN RULE OF PROFESSIONAL CONDUCT, Rule 7.3(a) (2002).

²² See Letter, *supra* n. 9.

²³ Alaska R. Evid. 408.

The State also argues that AS 40.25.110 does not require it to create documents in response to a request if those documents are not in existence at the time of the request.²⁴ The court agrees. However, the past practice the State adopted of providing the summary lists rather than the actual ROI forms cannot be used to refuse the information requested. If the State chooses to no longer provide a summary list for its own convenience rather than the actual ROI forms, it must satisfy the March, 2005 request by releasing the underlying ROI forms. The State must provide the ROI requested in the March 2005 request or a summary as provided in the past.

After November 7, 2005

Much of the 2005 special session of the Alaska legislature was taken up with the consideration of a new Workers Compensation scheme. That scheme was originally submitted by the governor and introduced as Senate Bill 130. A conference substitute for SB 130 was eventually enacted as 10 SLA 2005. That law had a provision at AS 23.30.107(c) that said:

“The division may not assemble, or provide information respecting, individual records for commercial purposes that are outside the scope of this chapter.”²⁵

Constitutional Challenge

²⁴ See Opposition to Plaintiff Motion for Summary Judgment and Cross Motion in Support of Summary Judgment at 4.

²⁵ Section 39 of the SLA

O'Bryan argues that the statute is unconstitutional if it is interpreted to prevent O'Bryan from having access for a commercial purpose. The State argues that the statute is not unconstitutional. It would be an interesting proposition if the State's interpretation would not allow a newspaper access to this information to support a story on safety in the workplace because it was a "commercial purpose". The State's interpretation would not allow an insurance company to obtain this information to find out how potential customers were dealing with their employees. Yet a citizen with a casual interest, just being nosy, could find out all things requested here by O'Bryan. Fortunately the court feels that it does not have to decide the constitutional question. The court is to decide cases on constitutional grounds only when the cases cannot be decided fairly on statutory or other grounds.²⁶ Whether the constitutional challenge is equal protection or free speech, the issues need not be decided here. The court believes that the correct analysis is statutory construction.

Statutory Interpretation

A statute is to be interpreted according to its plain meaning and if it is ambiguous the court is to look at the intent of the legislature.²⁷ The court is to interpret laws

²⁶ State Department of Health and Social Services v. Valley Hospital Association Inc., 116 P.3d 580 (Alaska 2005)

²⁷ North Slope Borough v. Sohio Petroleum Corp. 585 P.2d 534 (Alaska 1978)

restricting the public's access to state records strictly. "Doubtful cases should be resolved by permitting public inspection."²⁸

The court finds the statute ambiguous in several ways. Nearly anything today can be characterized as a "commercial purpose" including government itself sometimes. There has been much discussion in a variety of forums through the years on whether the practice of law is a profession or a commercial venture.²⁹ The statute does not define "commercial purpose" as meant in the framework of this scheme. The decision to release information or not, depending on how the recipient is going to use the information would be a continuing conundrum for the State and recipients.

The prohibition in the statute on providing information is only applicable for "purposes that are outside the scope of this chapter."

Neither party provided the court with any legislative history of AS 23.30.107(c).

The court's review of the legislative history of the statute shows nothing in the legislative history to make the phrase "commercial purpose" more definite. This subsection was Section 28 of the original bill that was introduced at the request of the governor. The transmittal letter from the governor included the stated purpose of the legislation to "enhance the efficiency of the current system by expanding workers access

²⁸ *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1216 (Alaska 1982) at 540.

²⁹ See e.g. *ABA v. FTC*, 430 F.3d 457 (C.A.D.C. 2005); *Bailev v. State*, 424 S.E. 2d 503 (S. C. 1992 at 504 reh'g denied (1993)); Samuel J. Levine, *Professionalism with Parochialism*, 71 *Fordham L. Rev.* 1339 (2002-2003)

to legal counsel". There was testimony before the legislature that there was a dearth of lawyers for those injured on the job.

"We need access to legal counsel. There are only eight attorneys assisting claimants and some are choosing not to represent injured workers in favorable profitable types of litigation."³⁰

A provision was put into the bill allowing the State to contract to pay lawyers to help injured workers. The Director of the Division of Workers Compensation in explaining a section that was meant to encourage lawyers to be involved said the statute was allowing attorneys to charge for an initial consultation with injured workers because ...there are a limited number of private attorney who are willing to provide the service. [to workers]³¹ The only references found in the legislative history relating directly to subsection 107(c) were statements made by the Director of the Division. He said

... We would maintain, in section 27, the confidentiality of medical and rehabilitation records that are held by the division or the new appeals commission. And, in Section 28, it would ban the division from assembling or providing individual records for commercial purposes. We've got a number of folks that ask us to give them information. We are getting more and more information into our system that we request because we are trying to get electronically filed and now we getting this intercession where people recognize that there is more and more information about employers, employees, anybody you can think of. They asked us to stratify this data and give them some kind of report that they can use

³⁰ Testimony of Barbara Williams, of the Alaska Injured Workers Alliance, on March 8 before Labor & Commerce Committee.

³¹ Paul Lisankie at 8:56:51 AM before Senate Judiciary on April 5, 2005.

for a commercial purpose. We want to be able to give information to people that need it so they can get good health care, so that they can get paid for providing that health care, so that an insurance company or an employer or an employee can get information they need to settle, or resolve, or if necessary, have a hearing on a disputed claim. We're trying to restrict the scope of information that we give out for purely commercial purposes.³²

On April 5, 2005 he testified:

Section 28 is a new provision, which would ban the Division of Workers Compensation from assembling or providing individual records for commercial purposes. The Division of Workers Compensation is asking people to file online so as to speed up the process. However, they are getting requests from other people to provide information that may be used for other purposes. People have legitimate privacy concerns.³³

The court has to recognize that providing those injured on the job with accurate information about their legal rights is an important public interest recognized by the legislature. It is also clear that attorneys are more willing to represent persons in Workers Compensation cases if there are related, more profitable tort claims that can be pursued for the client. Clearly other legal remedies may help workers "settle or resolve" Workers Compensation claims as the Director wanted. The court finds that making it possible for lawyers to tell injured workers of their rights is not "outside the purposes of this chapter".

³² Paul Lisankie at 2:16:54 PM on March 10, 2005 before the Senate Labor and Commerce Committee

³³ Senate Judiciary Committee Minutes at 9:26:25 AM

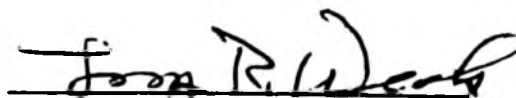
In weighing the privacy interests of access to names, addresses and phone numbers against the benefit of providing workers with legal information about their rights, the court believes the legislation provides for access to legal rights information. It is not clear whether the privacy concerns the Director referred to are the concerns of the employer or the employee nor is it clear what those concerns are. The new law specifically controls medical and rehabilitation information and release of that information is clearly prohibited. The privacy interest in that information is strong. Any privacy rights must be legitimate to be protected. The State has articulated no privacy interest of either the employee or employer about name, address and phone number that would justify keeping that information secret.

The stated goals of the legislation to provide counsel, and the ambiguity of the statute, and the requirement that laws limiting access to state records be strictly construed results in the court finding no need to address the constitutionality of the statute. The court believes that a reading of the statute that allows access to only names, addresses and phone numbers of claimants injured at particular employers is not "outside the scope of the chapter". The legislation is aimed at protecting workers injured on the job and O'Bryan's efforts to give workers information about their possible legal rights accomplishes that aim.

The court grants O'Bryan's motion for summary judgment.

The court denies the State's motion for summary judgment.

Dated this 7th day of April, 2006, at Juneau, Alaska.



Larry R. Weeks
Superior Court Judge

CERTIFICATION OF SERVICE

I certify that I served the following parties on the 10 day of April, 2006:

Daniel Bruce
By Courtbox.

Judith Crowell
Assistant Attorney General
Department of Law
Office of the Attorney General
Anchorage Branch
1031 W. Fourth Avenue, Suite 200
Anchorage, AK 99501



Tracy Ver Velde
Professional Assistant to Judge Weeks

Cliff Stone

From: Paula D Scavera [paula_scavera@labor.state.ak.us]
Sent: Friday, February 23, 2007 10:20 AM
To: Cliff Stone
Subject: FW: Workers Compensation Claimants

Cliff- Here is the email that was sent to the Division of Workers' Compensation. The request for information is public information but we have edited out the name of the staff person. Thank you. Paula

From: Rick Tripp [mailto:rtripp@obryanlaw.net]
Sent: Friday, February 23, 2007 6:45 AM
To:
Subject: Workers Compensation Claimants

Dear Mr.

Please provide us with a list of all Workers' Compensation claimants for injuries reported from 11/30/04 to the present, including names, addresses and phone numbers, against the following companies: American Seafoods, Icicle Seafoods, Deep Sea Fisheries, Norquest Seafoods, Ocean Beauty Seafoods Inc., Pacific Star Seafoods, Peter Pan Seafood, Inc., Petersburg Fisheries, Saltwater, Inc., Seafood Producers Co-op, Sitka Sound Seafoods, Snopac Products, Trident Seafoods, Unisea, Inc., Alaska Ocean Seafood, Inc., Artic Storm, Inc., Glacier Fish Co., LLC, Highland Light and Starbpond LLC.
Call me when you receive this email. Time is of the essence.

Rick Tripp
O'Bryan Baun Cohen Kuebler
401 S. Old Woodward, Ste. 320
Birmingham, MI 48009
248.258.6262
248.258.6047 (f)

*Please note the date of Feb. 23, 2007 on the request from this law firm.
This is the day after the original HB 121 was heard and passed out of the
House Labor and Commerce Committee on Feb. 22, 2007.*

AUTOS JOBS REAL ESTATE CLASSIFIEDS

log in log out my account faq

subscribe archives stop n' shop contact us Juneau Brides southeast alaska homes legislature visitor guide



Census Bureau inadvertently posts personal data on Web site

- » Empire Front Page
- » Local News
- » Opinion
- » Letters To The Editor
- » ClubHooligan.com
- » Neighbors
- » State & Regional News
- » Obituaries
- » Weather
- » Business News
- » Archives
- » Alaska AP Wire
- » National AP Wire
- » RSS Feed
- » Health
- » SE Alaska Real Estate & Rental
- » Juneau-Skagway Road Series
- » Looking Forward

STEPHEN OHLEMACHER
Associated Press Writer

WASHINGTON — The Census Bureau inadvertently posted personal information from 302 households in Alaska and other states on a public Internet site multiple times over a five-month period, the bureau said Wednesday.

The information included names, addresses, phone numbers, birth dates and family income ranges, said Ruth Cymber, the agency's director of communications. No Social Security numbers were posted, and there is no evidence that the data was misused, Cymber said.

But, she added, posting the information violated bureau policies and federal law.

The bureau is in the process of contacting the households, located in nine states and the District of Columbia, to offer free credit-monitoring services.

"A breach of this kind is unacceptable," Census Director Charles Louis Kincannon said in a statement. "We are strengthening our internal procedures to further safeguard our data to prevent a recurrence."

- » Local Sports
- » Empire Outdoors
- » Juneau Softball
- » DHS Sports
- » Gold Medal 2006
- » Golf News & Scores

The information was on and off the public Web site from October to Feb. 15 as Census employees working from home tested new software, Cymber said. The workers were supposed to use fictitious information to test the site, but they inadvertently mingled data from the bureau's Current Population Survey, a monthly survey best known for generating the nation's employment statistics.

Yellow
Juneau's new online yellow pages!

What:

Where:

Cymber said the real and fictitious data were indistinguishable. The information could have been accessed through a search engine on the Census Bureau's Web site used to disseminate large data files. She said she didn't know whether the data actually was accessed by anyone.

Cymber declined to say how many employees were involved, though a release from the bureau said "appropriate administrative action" has been taken, pending the outcome of an ongoing investigation.

The bureau also referred the matter to the Commerce Department's inspector general. The Census Bureau is part of the Commerce Department.

- » Summer Monthly
- » UAS Connections
- » Job Fair
- » Capital City Weekly
- » ClubHooligan.com
- » Food Challenge
- » Submit "Around Town" Event
- » Books
- » Slideshows
- » Spotted
- » Select TV
- » Movie Listings
- » Juneau History
- » Poll Results

The affected households were located in Alabama, Alaska, Arkansas, Arizona, California, Colorado, Delaware, Florida, Connecticut and Washington, D.C.

The incident comes six months after the Census Bureau acknowledged losing 672 laptop computers since 2001, including 246 that contained personal data. Most of the computers were used by workers gathering survey information in communities.

On The Net: Census Bureau:

<http://www.census.gov/>

Copyright 2007 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

- » Classifieds
- » Email Newsletter
- » Stop N' Shop
- » Subscribe
- » 2007 Employment Guide
- » Jobs At The Empire
- » Open Carrier Routes
- » Local Maps
- » Advertising
- » Contact Us

All contents Copyright 1997-2007 Juneau Empire, Morris Digital Works Morris Communications Corporation
Contact Us | About Us | Privacy Policy |



ICICLE.

February 19, 2007

Representative Kurt Olson, Chair
House Labor & Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Chairman Olson and Committee Members,

On behalf of Icicle Seafoods, Inc., I want to express our strong support for HB 121, "An Act relating to release of information in individual workers' compensation records".

It has come to our attention, thanks in large part to one of our employees, that a private party outside of Alaska has been soliciting Alaska worker compensation claimants by obtaining personal information about them from the Alaska Dept. of Labor. After obtaining the names and addresses of injured workers, they use this private information for direct marketing purposes.

We find this practice incredibly disturbing and believe this information should not be made available without the consent of the person the information is about.

House Bill 121 would stop this objectionable practice and we fully support its adoption. Thank you for your consideration.

Sincerely,

Kris Norosz
Government Affairs
Icicle Seafoods, Inc.

PETERSBURG FISHERIES

A DIVISION OF ICICLE SEAFOODS, INC

P.O. Box 1147 • Petersburg, AK 99823 • Tel: 907-772-4294 • Fax: 907-772-4472



TRIDENT SEAFOODS CORPORATION

5301 Shilshole Ave NW, Seattle, WA 98107-4000 • (206) 783-3818 • Fax (206) 782-7195
Domestic Sales (206) 783-3474 • Fax (206) 782-7246
Export Sales (206) 783-3810 • Fax (206) 782-7195

February 21, 2006

The Honorable Kurt Olson, Chairman
Labor and Commerce Committee
Alaska State Legislature
State Capital
Juneau, Alaska 99801

Dear Representative Olson

I am writing on behalf of Trident Seafoods Corporation to express our strong support for HB 121. Our employees have been surprised to learn that the Alaska Department of Labor's Division of Workers' Compensation is disclosing the names and addresses of all individuals who are injured in the seafood processing industry. We believe the law should be changed so that this information is released only with the employee's consent.

This issue has come to our attention because a law firm from Michigan has been requesting information from the State about all the individuals in the seafood industry who have filed workers' compensation claims. This firm then solicits business from these individuals, seeking to bring claims under maritime law instead of under the State's workers' compensation system. This has resulted in some unusual maritime claims, including one lawsuit filed against the "vessel" Sand Point. Sand Point, of course, is not a vessel. It is a community in the Aleutians East Borough where Trident has a shorebased processing plant.

More importantly, many of the people at Trident who file workers' compensation claims do not want their personal information released to the public. They are upset about lawyers contacting them about their injury. Those employees who do not object to having personal information disclosed should be free to consent to having such information released. Without such authorization, however, we believe this type of information should remain private.

Thank you for considering our views on this legislation.

Sincerely,

Joseph T. Plesha
General Counsel

Alaska

Aktutan • Anchorage • Chignik • Clarks Point • Cordova • Dillingham • Dutch Harbor
Ketchikan • Kodiak • Naknek • Petersburg • Sand Point • South Naknek • St Paul

Newport, OR • Ucluelet, B.C.



Washington

Anacortes • Bellingham • Everett
Fife • Tacoma • Seattle

February 15, 2007

Representative Peggy Wilson
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182


Dear Representative Wilson,

Thank you for sponsoring House Bill 121. I am in full support of this bill that will put an end to the release of personal information of worker compensation claimants by the State of Alaska, Dept. of Labor, and the Workers Compensation Board without the consent of the claimants.

I have attached a letter that I wrote last year in support of a similar measure. As a worker compensation claimant, I had my personal information released to a third party commercial operator (a Michigan law firm) who then used the information to solicit business from me. I did not appreciate this type of contact and do not feel personal information should be released in this situation without my personal consent.

Thank you for working to end this unpleasant practice. Please feel free to provide my letter to other legislators as the bill moves through the legislative process.

Sincerely,


Hyo R. Kim
P.O. Box 705
Petersburg, Alaska 99833

April 15, 2005

Senator Con Bunde, Chair,
Senate Labor & Commerce Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Bunde and Committee Members,

My name is Hyo R. Kim and I have been an Alaska resident for over 27 years. Approximately 5 months ago, I received a letter from an out of state attorney that somehow learned of an injury I had at work. He indicated in his letter that if I contacted his firm, they could possibly get me more money for my injury.

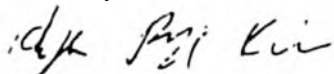
I called the attorney to find out what this was about and how he had access to my personal information. During our conversation, the attorney asked me many questions about how I was injured, what the injury was, etc. After talking, the attorney indicated that he could not do anything for me since the injury was not substantial. I got the feeling he thought there was not enough money for him to get involved.

I asked him how he was able to get my personal information and he basically said he had his sources in the State of Alaska. This really bothered me since I really don't want people other than those that I approve of having access to my personal and private information. This especially concerns me the most now that there are so many cases in the news of identity theft and fraud.

After discussing with my friends the conversation I had with this attorney, I learned that he most likely got my personal information from the Workers Compensation Board and the Alaska Dept. of Labor. If this is the case, it irritates me a lot as I do not want people to have access to my private information and I assumed that what I filled out on the Alaska Workers Compensation forms was confidential.

I am very surprised the State of Alaska would allow this information to be released about its residents. My injury is my private concern and should only involve me, my employer, my doctor, my family and not an out of state attorney. I ask you to please take the appropriate steps to make sure this does not happen again in the future.

Sincerely,



Hyo R. Kim
P.O. Box 705
Petersburg, Alaska 99833

February 19, 2007

The Honorable Kurt Olson
Chairman, Labor & Commerce Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Chairman Olsen:

I have been told that you are chairing a hearing on a bill that would keep confidential the personal information of people who file worker's compensation claims. I am writing in strong support of this legislation. I do not want any of my personal information made available to the public merely because I have filed a worker's compensation claim and respectfully ask that you enact the bill during this session of the legislature.

My husband, Gene, and I have both had minor injuries while we were working at Trident Seafoods Corporation shoreplant in Sand Point, Alaska. We each received unwelcomed solicitations from some lawyers back East asking if we were injured on a floating processing vessel. I do not want my personal information made available to the public and wondered how these lawyers got my name in the first place. I do not believe it is appropriate for the State of Alaska to release this information without my consent.

To be blunt, the fact I have suffered an injury in the workplace and filed a claim under worker's compensation should not entitle the public to my home address and other personal information. I certainly do not want some ambulance-chasing lawyer soliciting me because of my claim. If I had wanted to hire a lawyer to represent me, there are plenty of local attorney's available. They advertise in the Alaska Airlines magazine and every fishing magazine published.

I urge you to pass this legislation and appreciate you listening to my concerns.

Sincerely,



Gloria J. Copenspire