

HB

79

<TARGET><BILL>HB 79</BILL><SUBJECT>HB
79</SUBJECT><COMM>HJUD30</COMM></TARGET>



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Labor and
Workforce Development**

Office of the Commissioner

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TO: Representative Matt Claman, Judiciary Chair

FROM: Commissioner Heidi Drygas 

DATE: March 24, 2017

RE: Scheduling of HB 79, "Omnibus Workers Compensation"

At your earliest convenience, I respectfully request the scheduling of House Bill 79, "Omnibus Worker's Compensation."

Please do not hesitate to contact my staff, Debbie Banaszak, at 465-2702, with any questions or concerns about this legislation. I look forward to hearing from you and discussing the bill in further detail.

Thank you for your consideration.



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January 24, 2017

The Honorable Bryce Edgmon
Speaker of the House
Alaska State Legislature
State Capitol Room 208
Juneau, AK 99801

Dear Speaker Edgmon:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the workers' compensation system. The bill proposes improvements to increase the efficiency and flexibility of the current system for the benefit of injured workers and employers, including improving the delivery of benefits to injured employees, deterring workers' compensation fraud, ensuring compliance with the requirement that employers insure for workers' compensation liability, and providing adequate funding for the administration of the system.

The Legislature has consistently endeavored to create a workers' compensation system that delivers benefits quickly, efficiently, fairly, and predictably to injured workers at a reasonable cost to employers. Yet the system has not been significantly reformed in more than 10 years. The improvements in this bill address rising costs, recent legal developments, and new approaches to improve the system's efficiency and fairness.

First, the bill would speed up dispute resolution before the Workers' Compensation Board (Board), providing closure for both injured workers and their employers. The bill simplifies the process by requiring a hearing shortly after a claim is filed, rather than waiting for an employee to request a hearing, and by ending the practice of permitting non-attorneys to represent parties before the Board. The bill also simplifies settlement agreements by eliminating a requirement that the Board approve attorney fees as part of a settlement when fees are the sole issue in the settlement that requires Board approval. Finally, the process of imposing civil penalties against uninsured employers is streamlined. The bill permits the Division of Workers' Compensation to assess the civil penalty directly, rather than petitioning the Board to set the penalty. An employer who disputes the assessed penalty may challenge the assessment before the board.

Second, to speed up the delivery of medical care to injured workers and reduce confusion for employers as a result of the Supreme Court's decision in *M-K Rivers v. Harris*, 325 P.3d 510 (2014), the bill adds provisions requiring employers to authorize or deny medical treatment upon a medical provider's written request, and provides a reasonable timeframe for an employer to respond without incurring a penalty. The Alaska Supreme Court held in *M-K Rivers* that an employer could

be subject to a penalty for unfairly controverting a prescribed medical treatment, even though no bill for the treatment had been presented to the employer for payment. This has resulted in questions over when medical treatment must be preauthorized.

Third, the bill strengthens provisions to prevent workers' compensation fraud by employers and employees. The bill defines when an employer's misclassification of employees or deceptive leasing practices amounts to fraud under the Alaska Workers' Compensation Act. In response to the Supreme Court's decision in *Shebata v. Salvation Army*, 225 P.3d 1106 (Alaska 2010), the bill also imposes an affirmative duty on employees receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits. These provisions will deter fraudulent conduct by employees that results in the unlawful receipt of workers' compensation benefits, or conduct by employers that results in artificially low workers' compensation premiums.

Fourth, the bill makes a number of substantive changes to the assessment of civil penalties against employers who fail to insure for workers' compensation. Among other changes, the Division of Workers' Compensation's ability to assess a civil penalty is expanded to include employers who are underinsured because they have misclassified workers in a variety of ways as not subject to workers' compensation coverage, misrepresented the nature of their business, or engaged in deceptive leasing practices. Provisions in the bill would expand personal liability for workers' compensation benefits and civil penalties for failure to insure to owners of more types of employing business entities. Most significantly, the bill changes the calculation and maximum civil penalty for a failure to insure for workers' compensation liability. The current maximum penalty of \$1,000 for each uninsured employee workday has led to two unintended consequences. The calculation results in astronomically high penalties that do not withstand review on appeal and that increase litigation costs and employer defaults. In addition, uninsured employers that have not maintained required records frequently are penalized less severely than similar employers that have kept records because of the difficulty of establishing the number of uninsured employee workdays without records. To correct these issues, the bill sets a maximum penalty of three times the workers' compensation insurance premium that the employer would have paid if the employer had properly insured its employees. This calculation is easier because it requires only the employer's overall payroll data and the Division of Insurance's assigned risk rates for the nature of the employer's business. The new penalty will result in a reasonable deterrent that takes into account the employer's size, the nature of the employer's business, and the financial gain the employer realized by operating without paying, in full or in part, for workers' compensation insurance.

Fifth, the bill reduces administrative costs. The bill allows employers to pay benefits electronically, both delivering benefits to workers faster and saving costs. The bill also allows the Division of Workers' Compensation to mandate electronic filing of certain reports from employers and insurers, and eliminates a requirement that corporate executive officers seek the division's approval before opting out of workers' compensation coverage for themselves. The bill adds medical publications to a list the Department of Labor and Workforce Development may incorporate, including future amended versions, into regulation. In addition, the bill provides a penalty for insurers and employers that fail to timely submit proof of coverage in order to reduce the Division's wasted efforts investigating insured employers that neglected to report insurance

The Honorable Bryce Edgmon
Transmittal Workers' Compensation Efficiencies
January 24, 2017
Page 3

coverage. The bill also phases out the second injury fund, saving administrative costs for the Department and reducing costs for employers, which are required to contribute to the fund. The fund's purpose is to encourage employers to hire or retain disabled individuals, but the fund is no longer necessary with the passage of laws barring employment discrimination on the basis of disability. Under the bill, the fund would not accept new claims and would be phased out as current claims are paid. Employers' required contributions to the fund would gradually drop to zero as the claims are paid.

Finally, the bill would ensure adequate funding for the administration of the workers' compensation and workers' safety programs by allowing the Department of Labor and Workforce Development to receive a greater percentage of the annual service fees that insurers pay to the Division of Insurance. The bill does not increase the service fee for workers' compensation insurers or employers, but allocates more of the insurers' annual service fee to the Department.

In the spirit of streamlining government processes and protecting citizen rights, the bill would speed up resolution of disputes, improve delivery of benefits to injured employees, strengthen fraud prosecution and employers' compliance with the requirement to insure employees for workers' compensation liability, and reduce administrative costs.

I urge your prompt and favorable action on this measure.

Sincerely,



Bill Walker
Governor

Enclosure



CS for HB 79, Version O
Sectional Analysis

Section 1: Amends AS 23.05.067(a), by allowing the department of labor and workforce development to receive a greater percentage of the annual service fees that insurers pay.

Section 2: Amends AS 23.05.067(e), by clarifying that penalties for late-filed reports accrue to the workers' safety and compensation administration account.

Section 3: Amends AS 23.30.070(a), by making technical changes to allow electronic filing of documents.

Section 4: Amends AS 23.30.070(b), by making technical changes to allow electronic filing of documents.

Section 5: Amends AS 23.30.070(d), by allowing the division director to prescribe the format for reporting injuries to the division.

Section 6: Amends AS 23.30.070(f), by making technical changes to allow electronic filing of documents.

Section 7: Amends AS 23.30.075(b), by expanding personal liability for workers' compensation benefits and civil penalties to owners of more types of employing business entities if the business fails to carry workers' compensation insurance.

Section 8: Amends AS 23.30.080(e), by moving the failure to insure process from the board to the division.

Section 9: Amends AS 23.30.080(f), by allowing the division to assess a civil penalty directly rather than petitioning the board to set the penalty, simplifying the calculation and maximum civil penalty for a failure to insure for workers' compensation liability, and allowing the division to assess a civil penalty against employers who have engaged in misclassification of workers for the purpose of evading full payment of workers' compensation insurance premiums.

Section 10: Amends AS 23.30.080(g), by extending from 7 days to 30 days for an employer to pay an assessed penalty.

Section 11: Adds new subsections to AS 23.30.080, providing for penalties for failure to produce records legally required to be kept, providing a process for an employer to dispute a civil penalty assessment, allowing an employer to pay an assessed civil penalty by payment plan, requiring that employers who agree to a payment plan pay interest, and clarifying penalties may not be suspended.

Section 12: Amends AS 23.30.082(a), by providing interest on civil penalties and other civil penalties under the Workers' Compensation Act (Act) accrue to the workers' compensation benefits guaranty fund.

Section 13: Amends AS 23.30.085, by extending from 10 days to 30 days the deadline for reporting termination of coverage, establishing a 30 day deadline for reporting initial coverage, and establishing a civil penalty for failure to submit proof of insurance to the division within 30 days.

Section 14: Amends AS 23.30.097(d), by clarifying when an employer must preauthorize or deny a provider's written request for medical treatment.

Section 15: Amends AS 23.30.098, by adding publications to a list the department of labor and workforce development may incorporate, including future amended versions, into regulation.

Section 16: Amends AS 23.30.110(c) by requiring the board to schedule a prehearing conference not later than 30 days after a claim is filed, and at the prehearing conference set discovery deadlines and a hearing date, rather than waiting for an employee to request a hearing.

Section 17: Amends AS 23.30.110(d) by ending the practice of permitting non-attorneys to represent parties before the board.

Section 18: Adds a new subsection to AS 23.30.110, providing the board shall file its decision not later than 30 days after the hearing record closes.

Section 19: Amends AS 23.30.155(a), by making technical changes to allow electronic filing of documents.

Section 20: Amends AS 23.30.155(b), by extending the date by which non-medical compensation benefits must be paid and clarifying when medical benefits are due.

Section 21: Amends AS 23.30.155(c), by making technical changes to allow electronic filing of documents.

Section 22: Amends AS 23.30.155(d), by making technical changes to allow electronic filing of documents, removing the seven day grace period for payment of compensation benefits, and clarifying when an employer's denial of a provider's written request for medical treatment must be filed.

Section 23: Amends AS 23.30.155(e), by clarifying when a penalty accrues for late-paid medical benefits, including a provider's written request for medical treatment.

Section 24: Amends AS 23.30.155(m), by making technical changes to allow electronic filing of documents.

Section 25: Amends AS 23.30.165(a), by allowing an employee or the workers' compensation benefits guaranty fund the ability to file a lien within one year of knowledge of an employee's injury or death and allowing the division to file a lien for the amount of an assessed civil penalty.

Section 26: Amends AS 23.30.165(d), by allowing an employee or the workers' compensation benefits guaranty fund the ability to file a lien within one year of knowledge of an employee's injury or death and allowing the division to file a lien for the amount of an assessed civil penalty.

Section 27: Amends AS 23.30.205, by phasing out the second injury fund, setting an end date for the fund's acceptance of new reimbursement claims, and clarifying the fund will continue to pay reimbursement claims until all liability for previously accepted claims to the second injury fund, and claims ordered to be paid from that fund, have been satisfied.

Section 28: Amends AS 23.30.230(a), by providing for a definition of "independent contractor."

Section 29: Amends AS 23.30.240, by eliminating the requirement corporate executive officers seek the division's approval before opting out of workers' compensation coverage for themselves, and clarifying the requirements for opting out.

Section 30: Amends AS 23.30.247(c), by phasing out the second injury fund.

Section 31: Amends AS 23.30.250(a), and expands the basis for a finding of fraud by imposing an affirmative duty on an employee receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits, and allowing the division to assess a civil penalty against employers who have engaged in misclassification of workers.

Section 32: Amends AS 23.30.250(b), and expands the basis for a finding of fraud by imposing an affirmative duty on an employee receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits.

Section 33: Adds a new subsection to AS 23.30.250, and expands the basis for a finding of fraud by imposing an affirmative duty on an employee receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits, and clarifying what constitutes misclassification of workers for the purpose of evading full payment of workers' compensation insurance premiums.

Section 34: Amends AS 23.30.255(a), by clarifying which business entities and individuals are liable for failure to secure compensation.

Section 35: Amends AS 23.30.255(b), by clarifying which business entities and individuals are liable for knowingly disposing of assets with intent to avoid the payment of compensation to an employee or the employee's dependents.

Section 36: Adds a new subsection to AS 23.30.260, eliminating a requirement that the board approve attorney fees as part of a settlement when fees are the sole issue in the settlement that requires board approval.

Section 37: Amends AS 23.30.395, by defining "employee."

Section 38: Repeals AS 23.30.040(f), 23.30.080(d), 23.30.110(h), and 23.30.155(q) relating to the second injury fund, stop work orders, hearing requests, and methods of paying benefits.

Section 39: Amends the uncodified law of the State of Alaska, by adding transitional language.

Section 40: Amends the uncodified law of the State of Alaska, by adding transitional language and clarifying that subject to appropriation, the balance of the second injury fund lapses into the general fund after all liability for previously accepted claims to the second injury fund, and claims ordered to be paid from that fund, have been satisfied.

Section 41: Amends the uncodified law of the State of Alaska, by authorizing the department to initiate the regulatory process before the effective date.

Section 42: Clarifies sec. 41 takes effect immediately.

Section 43: Clarifies sec. 30 takes effect July 1, 2018.

Section 44: Clarifies sec. 29 takes effect August 1, 2018.



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Workforce Development

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April 5, 2017

The Honorable Matt Claman
House Judiciary Chair
State Capitol, Room 118
Juneau, AK 99801

Dear Chair Claman:

Thank you for the opportunity to provide testimony in support of HB 79 on March 31, 2017. To clarify some of the questions raised by the committee, I have provided the following responses.

1. Under the Alaska Workers' Compensation Act, May Non-Attorneys Charge Fees for Representation?

Non-attorney representatives cannot charge any kind of fee for their services representing or advising workers' compensation claimants, and if they do, they are subject to criminal penalties under AS 23.30.260.

2. To Whom is the Penalty Paid for a Failure to Timely Pay or Deny Medical Treatment?

Currently, penalties due for failure to timely pay or deny a medical bill go to the medical provider, and penalties due for failure to timely pay or deny a claimant's reimbursement request go to the claimant. Under HB 79, penalties due for a failure to timely preauthorize or deny a provider's written request for medical treatment would go to the injured worker. This is because the injured workers is the person harmed by the delay in waiting for the requested medical treatment.

3. Is There a Mechanism in Place to Ensure All Employers Have Some Means of Procuring Workers' Compensation Insurance?

Yes. In general, most employers are under a statutory obligation to obtain workers compensation insurance and provide its employees with medical benefits and compensation for lost wages due to injury, occupational disease, or death arising from the employee's employment. Typically this coverage is purchased from a "voluntary" market insurance carrier; e.g. the carrier willingly writes a policy for that particular employer to cover its workers' compensation risk. For a number of reasons, some employers are unable to obtain workers compensation insurance in the voluntary market. These reasons include, unstable financial status, poor loss experience, new businesses with no prior experience, or the inherently dangerous or hazardous nature of the work performed by the employer. In Alaska, this includes, for example, many seasonal guide operations and construction workers.

The Honorable Matt Claman
April 5, 2017
Page 2

If an employer has been declined coverage by at least two voluntary carriers, it may apply for insurance through the workers' compensation assigned risk plan. The assigned risk plan has two separate mechanisms for providing coverage and services to employers: direct assignment or pool membership. Every insurer writing workers' compensation in Alaska must either receive direct assignments or maintain membership in the pool (see AS 21.39.155(a), 3 AAC 30.010). Under the direct assignment option, an applicant/employer is matched with a carrier who services the policy and pays claims, just like they would a voluntary policy; the total volume of such assignments is based on each insurer's voluntary market share. Under the pool option, an applicant is matched with one of a few "servicing carriers" (who together service all of the policies in the pool) but the claims experience are shared equitably among all pool members based on their voluntary market share—i.e. via a reinsurance pooling mechanism.

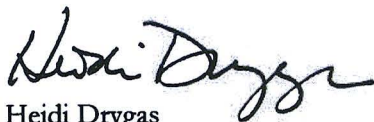
4. What Does 2.5% of the Workers' Compensation Premiums Written Equate to on an Annual Basis? How Will the Change to the Amount of Revenue Going to the General Fund Affect Future Budgets?

Based on FY16 Workers' Compensation premiums written, the 2.5% would equate to \$7 million annually. This will be an increase of \$1.89 million from the current 1.88% of the total that is deposited into the Workers' Safety and Compensation Administration Account (WSCAA).

In FY2013, the state moved \$2 million of required state match funding for workers' safety programs from WSCAA to the General Fund due to WSCAA fund sufficiency problems. By increasing the amount of the Workers' Compensation premium fee deposited into WSCAA, we could propose in a future budget to move this state match requirement back onto WSCAA and off of the General Fund. WSCAA was specifically established to support these workers' safety programs and workers' compensation administration.

Please don't hesitate to contact me if you have additional questions.

Sincerely,



Heidi Drygas
Commissioner

HB 79 OMNIBUS WORKERS' COMPENSATION

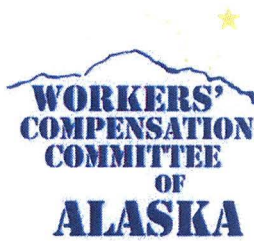
Supporting Documents

Letters of Support

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Letters of Opposition

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February 17, 2017

Representative Sam Kito
House Labor & Commerce Committee Chair
State Capitol, Room 403
Juneau, AK 99801

RE: Senate Bill 40/House Bill 79

Dear Representative Kito:

The Workers' Compensation Committee of Alaska (WCCA) is an employer advocacy group dedicated to helping educate and advocate for Alaska employers on issues regarding workers' compensation. We thank the governor for taking an interest in the workers' compensation system and introducing legislation meant to improve the delivery of benefits to injured workers, deter workers' compensation fraud, ensure compliance with the requirement to carry workers' compensation insurance, and provide adequate funding for administration of the system.

WCCA has reviewed the bill and we would like to share some of our thoughts with you:

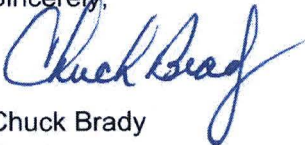
- We welcome efforts at speeding up dispute resolution before the Workers' Compensation Board. Although setting a hearing within 30 days after a claim is filed would move things along, it may not allow sufficient time for employers to do a proper investigation. We think there should also be a provision for mandatory mediation.
- Ending the practice of allowing non-attorneys to represent parties before the Board is a good move, but we would like to see the language amended to allow paralegals under the direct supervision of an attorney to represent parties.
- We oppose eliminating the statute of limitations under AS 23.30.110 (c).
- Eliminating Board approval of attorney fees on settlements that are effective upon filing (don't require Board approval) is a positive step.
- The bill's attempt to speed up medical care is well-intended, but the requirement to authorize or controvert treatment within 60 days of receipt of a provider's written request is problematic for employers and will likely result in a significant increase in controversies and litigation, further

delaying the delivery of medical care. We would rather see the bill state that pre authorization of treatment is allowed, but not required.

- We applaud the bill's effort to prevent workers' compensation fraud. We support the affirmative duty of injured workers to report the receipt of wages and other types of wage-replacement benefits.
- Regarding the misclassification of employees, the WCCA agrees that employers should not attempt to defraud insurance carriers by misclassifying employees, but there should be safeguards against pursuing employers who inadvertently misclassify employees without malicious intent.
- The WCCA agrees with the bill's intent to further clarify the definition of "independent contractor," but we are concerned that the proposed definition is too limiting. Some of the language ignores the economic realities of certain sole proprietors and owner-operators and would result in the disruption of accepted business practices that have been in place in Alaska and around the country for decades.
- The WCCA agrees with the bill's intent to limit civil penalties against uninsured employers to three times the amount of the workers' compensation premium that would have been paid.
- We agree with the bill's intent to reduce administrative costs by allowing payment of benefits electronically, mandating electronic filing of certain reports, and eliminating the requirement that corporate officers get Division approval to opt out of workers' compensation coverage for themselves. We also agree with incorporating medical publications and amended future versions into Department regulations. We do not support the imposition of a penalty for employers and insurers who don't file timely proof-of-insurance.
- The WCCA at this time is not taking a position on the phasing out of the Second Injury Fund. However, we are concerned about what happens to any surplus funds once all claims are paid and closed. Because this money is paid directly by employers and insurance companies specifically for the purpose of paying claims against the Fund, any surplus should either be returned to employers and insurance carriers or applied to some other purpose that would result in a reduction of premium taxes or WSCAA assessments.
- The WCCA doesn't necessarily oppose a greater percentage of the annual service fees going to fund the Department of Labor and Workforce Development. However, we maintain that the Department of Labor and Workforce Development still needs to implement efficiencies and reform measures designed to reduce costs, such as repealing AS 23.30.005 in whole or in part, before WCCA members are willing to support a change.

As always, the WCCA is available to provide input and guidance on workers' compensation issues. The WCCA believes that comprehensive workers' compensation reform is what Alaska employers need...desperately! Please let us know how we can help.

Sincerely,



Chuck Brady
President

cc: Commissioner Heidi Drygas
Alaska Department of Labor & Workforce Development
P.O. Box 111149
Juneau, AK 99811

Alaska Trucking Association, Inc.

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HB79 OMNIBUS WORKERS' COMPENSATION

House Labor and Commerce Committee

3:15 pm, February 20, 2017

Aves D. Thompson, Executive Director

Alaska Trucking Association

Thank you. Mr. Chair and members of the committee, I am Aves Thompson, Executive Director of the Alaska Trucking Association. The Alaska Trucking Association is a state wide organization representing the interests of our nearly 200 member companies from Barrow to Ketchikan. Freight movement represents a large chunk of our economy and impacts all of us each and every day. The simple truth is that “if you got it, a truck brought it.”

HB79 proposes changes in AS 23.30.230(a)(11) to add language to define the “tests” to determine when a person is an independent contractor for purposes of workers compensation coverage. The Alaska Trucking Association has some concerns about these tests. The independent contractor or owner operators business model has played an important role in the trucking industry for decades.

Owner-operators serve a valued function within the trucking industry. They are small business owners who rely on their own prudent decision-making and hard work to earn a living and build a business. They offer



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professionally-staffed hauling and delivery capacity to motor carriers. Their revenues and profit are directly tied to their level of effort and business judgments – that is, choosing the right truck (make, model and condition) for their operations; deciding how best to finance that truck; selecting repair and maintenance vendors; and deciding whether to hire drivers and substitute drivers. But those initial decisions are only the tip of the iceberg, ongoing business decisions must be made regarding fueling times and vendors; software use including routing programs; insurance coverages, and a wide variety of other needed products-and-services. One of the most critical decisions that owner-operators make is their selection of a motor carrier partner. They must select a carrier whose operations and procedures fit the contractor's business plan. Then as the business grows, the owner-operator must decide the utility of acquiring additional trucks and hiring more drivers and decide whether to partner with multiple carriers.

Motor carriers can rely on the owner-operator's independent motivation and business skills without having to apply the constant and detailed control necessary with the carriers' employee-drivers. The basic bargain the owner-operator strikes with each of its motor-carrier customers turns on the potential for mutual profit. If the owner-operator works hard and makes smart business decisions, he or she profits. The motor carrier profits by the professional, timely, and efficient delivery of freight by this self-motivated independent contractor. The motor carrier can conserve its management resources for other key tasks such as business generation, customer service and financial management.



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Owner operators are an effective method for the industry to quickly respond to changing customer or market demands by allowing expansion and contraction of the work force.

It is also important to note that equipment and driver leasing in the trucking business is heavily regulated by both Federal Statute, 49 USC 14102, Leased Motor Vehicles and US DOT regulation, 49 CFR part 376, Lease and Interchange of Vehicles.

The proposed changes to the WC statute essentially preclude the use of owner operators in the trucking business in a number of different ways. The rules or tests proposed in HB79 dealing with economic reality in (11)(A) rules out an owner operator who works primarily for one motor carrier although the owner operator may work occasionally for other motor carriers. The second instance is in (11)(E), which leaves open interpretation of “direction of the motor carrier to the contractor” or owner operator and does not clearly specify that many times direction is given to the owner operator that results from customer demands or the requirement of some level of governmental law or regulation. The third instance is found in (11)(F) that prohibits a motor carrier from hiring an owner operator to haul a load of freight.

Our first recommendation is to provide an exemption in AS 23.30.230(a) that will exempt truck drivers from the provisions of this act in the same way that taxi drivers and network transportation drivers are exempted in current law and in SB14. This will clearly establish the truck driver owner operator business model in Alaska law.



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Our second recommendation (ATA#1) is the adoption of a distinct truck driver independent contractor/owner operator definition and set of tests. We have provided specific language to the Commissioner of the Department of Labor and Workforce Development to accomplish our recommendation.

Thirdly, we have provided proposed changes to the language contained in HB79 that will help to address our issues but not as effectively as our first recommendation. (ATA #2)

We are happy to work with the proposers of the changes to assist in clarifying the issues.

Thank you for your time and I will try to answer any questions.

Aves Thompson
Executive Director



If you got it, a truck brought it...

ATA
#1

American Trucking Associations
INDEPENDENT CONTRACTOR MODEL DEFINITION LANGUAGE

PROPOSED BLANKET EXEMPTION

General Exemption:

An independent contractor is an individual who owns or holds under a bona fide lease a motor vehicle which the individual leases to a motor carrier and who personally operates such leased equipment under a written agreement with the motor carrier that specifies that such operations involve an independent contractor relationship.

PROPOSED FACTOR TEST

Independent Contractor Determination

A person operating a motor vehicle for a carrier of property under this chapter shall be considered an independent contractor and not an employee if each of the following factors is substantially present:

- a. The person makes a material investment or incurs a material obligation related to equipment contracted to the carrier and used in performing service.
- b. The person has direction and control in meeting and performing contract obligations subject to conformance with governmental dictates, lawful requirements of third parties relative to the transport or other contractual obligations undertaken, and any reasonable administrative and clerical procedures needed for contract administration.
- c. The person has the principal burden of the operating costs and personal expenses related to contract work.
- d. The person's compensation is based primarily on factors related to contract work and not on the number of hours worked and affords the person the opportunity to realize a profit or loss based on the relationship of business receipts and expenditures.
- e. The person is responsible for hiring or otherwise engaging and paying the necessary personnel to operate the equipment and meet any contract obligations related to it.
- f. A written contract governs the relationship and specifies the relationship of the parties to be that of independent contractor and not an employer-employee relationship.

Alaska HB79/SB40 (bills deal with WC)

ATA
#2

9 * Sec. 31. AS 23.30.230(a) is amended to read:

10 (a) The following persons are not covered by this chapter:

11 Al

12 (2) a cleaning person;

13 (3) harvest help and similar part-time or transient help;

14 (4) a person employed as a sports official on a contractual basis and
15 who officiates only at sports events in which the players are not compensated; in this
16 paragraph, "sports official" includes an umpire, referee, judge, scorekeeper,
17 timekeeper, organizer, or other person who is a neutral participant in a sports event;

18 (5) a person employed as an entertainer on a contractual basis;

19 (6) a commercial fisherman, as defined in AS 16.05.940;

20 (7) an individual who drives a taxicab whose compensation and written
21 contractual arrangement is as described in AS 23.10.055(a)(13), unless the hours
22 worked by the individual or the areas in which the individual may work are restricted
23 except to comply with local ordinances;

24 (8) a participant in the Alaska temporary assistance program
25 (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than
26 subsidized or unsubsidized work or on-the-job training;

27 (9) a person employed as a player or coach by a professional hockey
28 team if the person is covered under a health care insurance plan provided by the
29 professional hockey team, the coverage is applicable to both work related and
30 nonwork related injuries, and the coverage provides medical and related benefits as
31 required under this chapter, except that coverage may not be limited to two years from

1 the date of injury as described under AS 23.30.095(a); in this paragraph, "health care
2 insurance" has the meaning given in AS 21.12.050; [AND]

3 (10) a person working as a qualified real estate licensee who performs
4 services under a written contract that provides that the person will not be treated as an
5 employee for federal income tax or workers' compensation purposes; in this
6 paragraph, "qualified real estate licensee" means a person who is required to be
7 licensed under AS 08.88.161 and whose payment for services is directly related to
8 sales or other output rather than the number of hours worked; and

9 (11) a person employed as an independent contractor; a person is
10 an independent contractor only if the person

11 (A) maintains a licensed business; [, THE SUCCESS OR
12 PROFITABILITY OF WHICH DOES NOT DEPEND EXCLUSIVELY OR PRIMARILY ON THE
13 INDIVIDUAL FOR WHOM OR THE ENTITY FOR WHICH SERVICES ARE PERFORMED;]

14 (B) has a federal employer identification number issued by
15 the Internal Revenue Service or has filed business or self-employment
16 income tax returns with the Internal Revenue Service the previous tax
17 year, or, for a new business that was not operating in the previous tax
18 year, intends to file business or self-employment tax returns with the
19 Internal Revenue Service;

20 (C) has an express contract to perform the services;

21 (D) maintains liability insurance or other insurance policies
22 necessary to protect the employees, financial interests, and customers of
23 the person's business;

24 (E) is free from direction and control over the means and
25 manner of providing services, subject only to the right of the individual
26 for whom or entity for which the services are provided to specify the
27 desired results, completion schedule, or range of work hours[;] and any work rules provided
by any governmental rule, statute or regulation;

28 (F) IS ENGAGED IN A TRADE, OCCUPATION, PROFESSION, OR
29 BUSINESS TO PROVIDE SERVICES THAT ARE OUTSIDE THE USUAL COURSE OF BUSINESS
30 FOR THE INDIVIDUAL FOR WHOM OR THE ENTITY FOR WHICH THE SERVICES ARE
31 PERFORMED;]

30-GH1789\A HB 79 -18- HB0079a New Text Underlined [DELETED TEXT BRACKETED]

2 [(G)] (F) incurs most of the expenses for materials, tools,
3 equipment, labor, and other operational costs necessary for the person's
4 business;

5 [(H)] (G) has the opportunity for profit and may suffer loss based
6 on the management of revenue and expenses with the person's business;

7 [(I)] (H) does not work as part of a team of individuals or entities
8 on a singular task, such as painting a building or installing a roof, where
9 the work performed by the person cannot be clearly isolated form the
10 work performed by other individuals or entities;

11 [(J)] (I) hires, pays, controls, and fires any employees required
12 to perform the work for which the person was hired; and

13 [(K)] (J) maintains a business location separate from the
14 location of the individual for whom or the entity for which services are
performed.

2017 Workman's' Comp Issues

I am Shelly Erickson, a small family business owner of multiple business types. I have been the recipient of claims against my workman's comp policies. It has been frustrating that the State of Alaska laws in this area are all written in favor of the employee, no matter what the situation.

Please address the following as you are working on issues with SB29 and HB69
Repeal Workers' Comp Appeals Commission:

1. New Hires need to reveal or release workman's comp records
 - a. Problem
 - i. New hire physicals are expensive
 - ii. The applicant can and will lie to the medical world
 - iii. Repeat workman's comp claimants continue to abuse the system and employers because of lack of accountability by the law
2. There needs to be laws in place to protect the small businesses from the abuse of employees not following the policies for safety set in place or using the safety gear they are instructed to use.
 - a. The law assumes that the business is irresponsible.
 - b. There is no accountability for the employee in the law who disobey the safety rules repeatedly or intentionally.
 - c. Many small businesses in Homer can share similar complaints.
 - d. Insurance agents have to deal with the FRAUD yearly. There are many examples around Homer and the State of Alaska.
3. Boat owners are assumed to be negligent.

The law is in the deckhands favor – doesn't matter what the deckhand does, the boat owner is negligent.

Insurance has to cave to the fraud because of the law, even when they know there is fraudulent case.
4. Workman's Comp Insurance rates

- a. A very costly system for a small business owner, as the insurance has to settle for amounts in extreme of the problem.
 - b. FRAUD is the cause of high insurance rates
5. There needs to be fair consequences to anyone on either side – employer/employee. This one sided system is wrong and the more desperate people are in their private lives, the more they are looking at ways to get around the law and find money. The State needs to have a place to bring these fraudulent cases to and have them dealt with in a fair way for both the employer and employee. If the law cannot be written so these issues can be fixed within the insurance industry, then the state needs to provide a place for the abuse that is happening within the law to be addressed and make it fair for both sides.
6. People need to buy disability insurance so if they get hurt off the job and become disabled, they use that instead of using workman's comp.

Please include this in your public testimony. I would be more than happy to talk with you or look for creative solutions to improve the workman's comp laws. I know that other business owners and insurance industry would too. This cannot be a political issue, because it is literally about the health and wealth of our small businesses.

Shelly Erickson

PO Box 3695

Homer, AK 99603



WESTERN REGION

1201 K Street

Suite 1850

Sacramento, CA 95814

916-442-7617

www.aiadc.org

To: The Honorable Governor Bill Walker

From: Katherine Pettibone, Vice President Western Region
American Insurance Association

Re: SB 40 and HB 79 Worker's Compensation Bills

Position: **SUPPORT**

The American Insurance Association is pleased to support SB 40 and HB 79, which streamline procedures in the worker's compensation and reduce the occasions of employees going without coverage. The measures, among other things, eliminate the second injury fund on a prospective basis, provide more clarity in defining a worker as an employee or independent contractor, allow payments by debit card or electronic funds transfer, strengthen penalties on premium fraud and misclassification of employees, and clarify a medical provider's requirement to provide a written request for medical treatment. These measures provide notable improvements to Alaska's worker's compensation system that alleviate unnecessary friction and costs in the system.

The bills contain various improvements helping to provide accountability and adequate coverage for employees. Among other changes, the measures will reduce potential for misclassification of employees and questionable leasing practices, which unfortunately some employers have used to reduce coverage requirements. AIA is very supportive of the independent contractor test contained in the bill, as carriers seek clarity on whether an individual is an employee or an independent contractor.

The legislation also strengthens requirements for employees to report wages they receive while receiving workers' compensation benefits, as well as expanding liability among those employers who are shown to be evading workers' compensation requirements. Helping transparency and accountability will help make sure that both sides of the equation are being accounted for.

Other benefits include streamlining dispute resolution by speeding up the hearings and ending a practice of allowing non-attorneys to represent claimants in hearings. Employers must also authorize medical treatment for an injured worker on a providers' request and the bill ends uncertainty following a 2014 state Supreme Court decision over when treatment must be authorized by employers.

Finally, we endorse the elimination of the Second Injury Fund. The measures would eliminate the second injury fund on a going forward basis. Second injury funds are inconsistent with the

principle that costs should be internalized and, instead, require that all employers subsidize, via the assessment, benefits paid to claimants who were injured at another employer's workplace. Second injury funds tend to generate transaction costs and disputes as questions arise whether a claim properly belongs in the second injury fund. In addition, second injury funds often accumulate large unfunded deficits as the funds' are financed on a pay as you go process through assessments for current benefit payments.

For these reasons, we are pleased to support these measures and thank you for your efforts to improve the worker's compensation system.

Dear Committee Members,

I have been a member of the Alaska Bar since 1977. Some years ago I became aware of a rather chilling practice in the Workers Compensation process that I found inexcusable, and I have been pursuing a "fix" with my local Anchorage Representatives since. Representatives Gara and Spohnholz have been very gracious with their time in addressing this matter with me and the Administration and HB79 would provide minimal resolution of the problem.

Specifically, some Alaska Workers Compensation insurers have refused to provide medical service providers preauthorization for medical services after a claim has been accepted, and this has resulted in employees not receiving medical major procedures for months. Consider the following example. Janet is injured in the workplace and files an uncontested workers comp. claim. Her doctors order shoulder surgery. The doctors' office contacts the insurer and requests preauthorization as they would with respect to any other insurer. The insurer orders a second medical opinion but refuses to provide preauthorization. The doctors will not proceed with the treatment without the preauthorization, and the insurer, claiming no actual legal obligation to provide a preauthorization, refuses to provide one.

The insurers argue that since bills for accepted claims must be paid, and there is no specific requirement that preauthorization be provided, preauthorization is not necessary. This results in medical providers refusing to provide services as they are concerned that the insurer may refuse to pay for services after the service is provided, despite the provisions of the law that the bill must be paid. Second opinions are usually obtained through out-of-state itinerant doctors and may take months to obtain, and even then, insurers will not issue preauthorization. In other words, while purporting to have accepted the claim, the insurer/employer is in fact intimidating and/or chilling medical providers into not providing services for fear that the bills will not be paid.

This practice has been the subject of numerous cases and most recently the Alaska Supreme Court has agreed with the Alaska Workers Compensation Board that this practice is unlawful and amounts to a controversion because payments for medical services are essentially payable under Alaska law at the time the services are prescribed. Nevertheless, insurers continue to engage in these practices, and the worst bit is that faced with the fact that these companies are simply thumbing their noses at Alaskan workers, the previous Administration knowingly determined to take no action with respect to this conduct.

The current Administration argued that any solution should be statutory, and with the Supreme Court decision in Bockus (attached), the Department included in this session's Omnibus Bill, HB79) a provision that would require preauthorization where the claim is not contested. This modest correction of our statutes is critical in order to ensure that the intent of the underlying law is addressed. The current loophole affords insurers an unholy and wholly unacceptable opportunity to delay treatment, in the ghoulish anticipation that treatment will become unnecessary (death comes to us all, eventually).

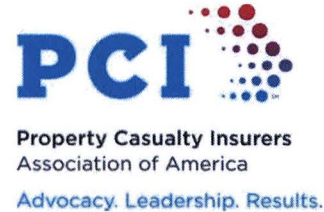
Fix this, please.

Marc Grober, Esq.

p.s. I have also made the attachments available here:

<http://alaskapolicy.net/PublicRecords/HB79/>

This directory includes the Workers Comp Board Bockus decision and the eventual Supreme Court ruling on it, the Kamitchis Board decision and the M-K River Supreme Court decision, all pertinent to any discussion of the preauthorization issue.



To: The Honorable Governor Bill Walker

From: American Insurance Association
National Association of Mutual Insurance Companies
Property Casualty Insurers Association of America

Re: SB 40 and HB 79 Worker's Compensation Bills

Position: **SUPPORT**

The above-named trades are pleased to support SB 40 and HB 79, which streamline procedures in the worker's compensation and reduce the occasions of employees going without coverage. The measures, among other things, eliminate the second injury fund on a prospective basis, provide more clarity in defining a worker as an employee or independent contractor, allow payments by debit card or electronic funds transfer, strengthen penalties on premium fraud and misclassification of employees, and clarify a medical provider's requirement to provide a written request for medical treatment. These measures provide notable improvements to Alaska's worker's compensation system that alleviate unnecessary friction and costs in the system.

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The legislation also strengthens requirements for employees to report wages they receive while receiving workers' compensation benefits, as well as expanding liability among those employers who are shown to be evading workers' compensation requirements. Helping transparency and accountability will help make sure that both sides of the equation are being accounted for.

Other benefits include streamlining dispute resolution by speeding up the hearings and ending a practice of allowing non-attorneys to represent claimants in hearings. Employers must also authorize medical treatment for an injured worker on a providers' request and the bill ends uncertainty following a 2014 state Supreme Court decision over when treatment must be authorized by employers.

Finally, we endorse the repeal of the Alaska Second Injury Fund. The legislation would repeal the second injury fund on a going forward basis. Second injury funds are inconsistent with the

principle that costs should be internalized and, instead, require that all employers subsidize, via the assessment, benefits paid to claimants who were injured at another employer's workplace.

The trades would note that under the bill Sec 32. AS 23.30.240 appears to change the existing language that makes officers considered employees until opting *out*, to instead flipping the presumption that officers are not employees if they have at least 10% and otherwise have to opt *in*. The trades are fine with the change, however, because of operational requirements, such as the need to change forms, programming and procedures to reflect this change, there is a risk of impacting existing policies mid-term. Therefore, we would ask for a delayed implementation date of a year and ensure it applies to renewals or new policies. We have seen significant problems when similar changes have taken place in other states without an implementation period.

For these reasons, we are pleased to support these measures and thank you for your efforts to improve the worker's compensation system.

GRIFFARD STEEL, INC.

Specializing in Steel Erection and Fabrication since 1977!

PO Box 71416
2650 Phillips Field Rd.
Fairbanks, AK 99707-1416
Phone 907.479.2972
Fax 907.479.0635
B.L.#085768
Cont. Lic. #AA18632



March 13, 2017

House of Labor and Commerce,

I am writing to you in support of HB79. I am a Structural Steel contractor that has been in business in Fairbanks, AK for 40years. In this time, I have noticed that through the bidding process, "independent contracts" seem to have an unfair advantage in times of economic downturn. I believe the reason for this is that they are not reporting their employee's worker compensation classifications correctly.

After review of HB79 I feel that the language in this bill would make it fair for construction contractors state wide because the misclassification through "independent contractors" is so staggering. The HB79 gives the fitting consequences to anyone that would want to misclassify their workers as "independent Contractors". With the financial crisis that the state is in, this bill would help bring in revenue that should be going to the state anyway.

Sincerely,

A handwritten signature in black ink, appearing to read "JD Wilkerson", with a horizontal line extending to the right.

JD Wilkerson
President
Griffard Steel, Inc.



To: House Labor and Commerce Committee
RE: HB79

I am a state wide General Contractor in Alaska. I am in support of HB79 for the following reasons:

HB79 will level the playing field when it comes to competitive bidding and contractors having and bidding with the correct worker's comp rate.

The enforcing agents need the tools to enforce the law as well as the proper protocol for punishment befitting the crime. I have witnessed less than lackluster contractors under bid substantially with the idea of turning around and misclassifying their employees as Independent contractors. This eliminates the Workers comp rate completely. In the line of work that I am in, structural steel erection is th 5th most dangerous job every year. The idea that men and women might be doing this work without worker's comp is mind boggling to me. Once again, I am in support of this bill.

Pat Whalen
President
Whalen Construction, INC.



2964 Commercial Drive
Anchorage, AK 99501

(907) 258-2425 Fax: (907) 278-8018

March 14, 2017

Subject: HB 79 Independent Contractors working Davis-Bacon Projects

To whom it may concern:

As a contractor who bids competitively on many Publicly Funded Contracts it has been distressing to see the number of so called independent contractors competing against us by banding together under a single contractor who submits a bid representing himself as a subcontractor or general contractor using these individuals as his work force. These so called independents do not carry Workman's Compensation Insurance and are required to pay their own taxes and SS costs which gives the general contractor or coordinating subcontractor a huge advantage in cost. They also are not required to pay themselves the wages called for under the Davis-Bacon Regulations. They are operating within the limits of law on paper but in the field they are frequently supplied tools, lifts, materials, etc. and given direction as to when and where they will work by the individual who has the basic contract.

Technically, they are liable for anything that occurs to them personally while on the job but the fact is they have no insurance to cover themselves if injured while they work.

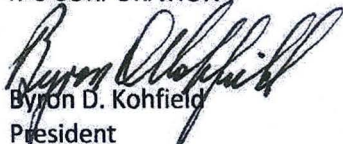
As general contractor, I am required by law to have Worker's Compensation Insurance on my people. Any legitimate subcontractor working for me is also required to have this coverage. Only an independent contractor can opt not to have this coverage but he must be independent in the sense that he has his own tools, supplies his own materials, trucks, lifts, etc. and works totally independent (by himself) on whatever job he contracts.

By joining forces as a team in the field, these individuals that do not have the insurance and tax costs like the rest of us can bid as much as 30% below us. The irony of this is if they are injured on the job you can be sure that the rest of us will ultimately end up paying for their care under some program.

These misclassified workers are raising havoc in the construction market and are forcing those of us who are following the law into extremely difficult positions. This is why it is so important that Bill HB-79 regulating these conditions be introduced and passed.

Sincerely,

K-C CORPORATION

A handwritten signature in black ink, appearing to read 'Byron D. Kohfield'. The signature is written in a cursive, flowing style.
Byron D. Kohfield
President



2964 Commercial Drive
Anchorage, AK 99501

(907) 258-2425 Fax: (907) 278-8018

March 14, 2017

Subject: SB 40 Independent Contractors working Davis-Bacon Projects

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As a contractor who bids competitively on many Publicly Funded Contracts it has been distressing to see the number of so called independent contractors competing against us by banding together under a single contractor who submits a bid representing himself as a subcontractor or general contractor using these individuals as his work force. These so called independents do not carry Workman's Compensation Insurance and are required to pay their own taxes and SS costs which gives the general contractor or coordinating subcontractor a huge advantage in cost. They also are not required to pay themselves the wages called for under the Davis-Bacon Regulations. They are operating within the limits of law on paper but in the field they are frequently supplied tools, lifts, materials, etc. and given direction as to when and where they will work by the individual who has the basic contract.

Technically, they are liable for anything that occurs to them personally while on the job but the fact is they have no insurance to cover themselves if injured while they work.

As general contractor, I am required by law to have Worker's Compensation Insurance on my people. Any legitimate subcontractor working for me is also required to have this coverage. Only an independent contractor can opt not to have this coverage but he must be independent in the sense that he has his own tools, supplies his own materials, trucks, lifts, etc. and works totally independent (by himself) on whatever job he contracts.

By joining forces as a team in the field, these individuals that do not have the insurance and tax costs like the rest of us can bid as much as 30% below us. The irony of this is if they are injured on the job you can be sure that the rest of us will ultimately end up paying for their care under some program.

These misclassified workers are raising havoc in the construction market and are forcing those of us who are following the law into extremely difficult positions. This is why it is so important that Bill SB-40 regulating these conditions be introduced and passed.

Sincerely,

K-C CORPORATION


Byron D. Kohfield
President

HB 79 miss classification

I own a small saw mill here in thorne bay. I am the product of laws not being enforced or else being unenforceable including in a big way workers comp.

I have a more than a 35 year history of owning above board business' including sawmills. Before that I was involved in equal ownership joint ventures periodically salvaging western red cedar during high school and winters off while managing logging companies near Homer and prince william sound in the 70s. I understand how both types of business' models work. I seek out agencies and laws that apply to me and the business I'm in. I use an in state CPA for all payroll and payroll law advice. An in state attorney when needed to catch any thing I might not that is required by laws. I listen to them as is expected of me.

Due to a failed logging and lumber business in the late 80s in Oregon I know clearly the wrath of the IRS, Oregon department of revenue and workers comp. No grace for the times or circumstances. We had provided 20-40 year around family wage jobs for 8 years with benefits including health insurance. For a couple of years we were one of the highest contributing members of Associated Oregon Loggers state wide to their workers comp program . I was years working my way through that issue.

in April of 1995 the state Alaska DNR sold phase one of Goose Creek Industrial Park, 17 heavy industrial parcels ranging from 5-11 acres. Every one of us bidders received bid packets that included complete information on requirements of employers to operate a business in Alaska including workers comp, and corp of engineers requirements. Every single lot sold in a bidding frenzy, some for many times appraised value. DNR quickly put out 8 more lots as big as 20 acres. Most also sold fast and furious.

For the next few years Both the USDA and State of Alaska sponsored well attended by most of the buyers, presentations on how to conduct business .

Within about a year several of us had developed to a point we could conduct business. A couple of us blasted rock, others hauled rock, some basically set up on the streets.

Until around 1998-99 the under the table bunch did not affect my business appreciably and they looked real loosely like they could be Joint Ventures. Ketchikan Pulp was largely their log source but KP was shutting down so they had started to buy timber sales and were driving up prices for a very limited supply of timber. I survived for a while because I was a better judge of timber Quality and only bought the best of what was offered. But when the volume went down I was left stranded with out timber.

Some of the additional savings for those that would chose to be under the table Thieves :
IRS Social Security tax and withholding Unemployment tax and withholding Food stamps
as part of wages overtime pay Workers Comp insurance The Free SERCC Clinic for

work and home Public Welfare as part of wages, Child Support Withholding (I have personally had to pay this one when my bookeeper forgot to withhold and the employee quit and drew up before it was caught.) any Other payroll deductions , Local taxes for fuel etc.,

About 2000-1 I began asking Worker Comp to come to Prince of Wales and assist those that had missed reading or researching the requirements to operate a business in Alaska.

In Workers Comps defense, they always seemed to have been allotted no travel dolors, They were short handed, the under the table bunch were my neighbors and friends so I would not name them.

Former employees of under the table companies have told me they had to be on food stamps year around because of low take home pay and then they had to be on welfare also during shutdowns with no unemployment benefit available. They used the free clinic for health care and work injuries for free or near free because their income was so low, no copay.

I have watched fuel being pumped into tanks and equipment in wide spots across the street from city limits to avoid local sales taxes. Workers comp insurance is just the beginning of the savings to be had for these criminals once it starts.

Several of these industrial lots still use the city streets as if they were their own log, lumber , and junkyard. Most Every other lot is bigger than the 5 acre that I bought. I was able to get off the street that I had also reconstructed in the process within days and long before business began. 22 years later, come on, its time to grow up.

The lack of inter agency cooperation is unreal.

The US Forest Service tells me they can not consider disbarment without a conviction, fraud or felony would would do.

It would seem that there would be liability for them and for that matter any land owner that never required Proof of insurance . I can not allow another business on my property without proper proof of insurance protection for us.

A lot of serious injuries requiring investigations happen remotely and the investigators don't get to see the rest of our island.

A few years back a couple of business' on the road system here in Thorne Bay had injuries that required workers comp investigations of those companies. Neither had comp coverage and one never even had a license to do business in Alaska. The latter was even "vetted" by the Forest Service and somehow passed inspection.

On those trips it was discovered that a lot of high risk business' were located here and only a couple of us had Workers Comp. A team of investigators returned later and delivered what amounted to slaps on the wrists. That was the tools Workers comp had to work with it seems.

I was legal so guess who's fault it is that crimes were committed. I've been told I caused at least 1 heart attack and I have had my life threatened.

Presently it's been over 7 years since I have been high bidder on a timber sale. I continue to bid on the good ones.

In order to put \$18 in my employees pocket like the higher paying under the table bunch were paying at one time I had to pay \$24 to cover my employees taxes. This meant My at the time \$52 logging rate for workers comp costs me \$12 more per hour plus the extra \$6 used to cover employees taxes total \$18 extra per hour, twice their cost. Not included are ficca, un-employment insurance and bookeeping and more.

The USFS and Alaska DNR appraisals both allow for profit after paying all bills and obeying all laws but not enough to allow me to pay more than double for my biggest expense beyond raw materials, my employees.

Maybe I have wrongly believed that I am responsible to provide a decent living for my employees and protection for them and their families and for potentially a very long time .

In the meantime I have been forced to sell paid for properties and assets to hang on to a promise I made to a local bank. We still hang on, however I am 67 years old ,we have lost a sizable chunk of our retirement nest eggs to in effect finance these criminals. I ask for fairness. I know and accept that I will have to be working hard at 75 years and beyond if the Lord allows. I was at the right place at the right time with the right skills and the right plan to make jobs happen.

A few months ago, soon after I was outbid by two under the table operators , one of them was quoted as saying "I think we have finally put Ernie out of business". Both of these men were helped through some tough times by me, I don't deserve that. They seem to believe My being a legitimate business was the reason they got scolded for being illegitimate businesses.

The state of Alaska has lost more money than me, they have had to pick up the tab on many fronts sometimes maybe with some federal help.

I have reviewed the suggested changes in HB 79. The changes seem to further clarify the intent of what should be a moral obligation to begin with.

Most Important

No matter how many laws we have, minus enforcement funding, and sufficient personnel, they are just useless data.

Fraud enforcement more than pays its own way.

Possible sources of revenue or assistance to help defray costs of enfourcement might be; Social Security Administration Unemployment insurance division Food Stamps IRS Welfare System

Child support collections, And other agencies USFS DNR Most of these agencies have been defrauded also and would at least benefit profitably.

A few front page convictions will yield Alaska substantial cost recovery, likely 100%, followed by long term savings and revenue.

On serious intentional cases it should be required that All arrears to all agencies be collected before being allowed to be an employer again, liquidating a few ill gained assets to catch up would seem necessary if not just. A few 3 year disbarments by the DNR and or USDA and other agencies would have people talking and complying in my industry.....all industries.

lastly

Viking Lumber told me years ago that more than 2 dozen companies and people were vetted before they could operate the Klawock mill when they bought it. Weyerhaeuser had committed antitrust fraud there. Viking had sold Weyerhaeuser chips and sold and bought logs from them in Washington state. The USFS was making sure there were no business ties to Weyerhaeuser. This too is part of enforcement to make sure that the cards don't just get reshuffled.

Ernie eads

Thank you for listening to me,

Can I try to answer any questions?



INTERNATIONAL UNION OF PAINTERS & ALLIED TRADES
DISTRICT COUNCIL 5/ALASKA LOCAL 1959



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Fax: 907 563-8843

MEMBERSHIP OFFICE
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Seattle, WA 98108
Ph: 855-297-0229

FAIRBANKS OFFICE
800 30th Ave., Unit A
Fairbanks, AK 99701
Ph: 907 457-4444
Fax: 907 457-4446

April 5, 2017

The Honorable Matt Claman
Chair, House Judiciary Committee
Alaska House of Representatives

Re: HB 79, Workers' Compensation Reform

Dear Representative Claman,

On behalf of the International Union of Painters and Allied Trades (IUPAT) I wish to respectfully share our reasons for supporting HB 79 and specifically its definitions of "independent sub-contractor" and "misclassification." The reason we feel so strongly about these definitions is that a business model has taken root in the construction industry here in Alaska whereby certain unscrupulous employers are requiring, as a condition of employment, that their workers go out and get business license's and perform construction work for them as so-called "independent sub-contractors" or owner-operators.

There are many examples in our State where entire crews of workers all perform services for one employer, on one project, and are all misclassified as independent sub-contractors. For example, the Dena'ina Center in Anchorage had thirteen so-called independent sub-contractors doing the drywall finishing work. One company bid the entire project, controlled how the work was to be done, provided all the materials for the project, and yet classified their entire crew as "independent sub-contractors." When a construction employer classifies all of their workers as independent sub-contractors in this manner, instead of as employees, it causes major problems across the entire scope of the construction industry, and here's why.

The construction industry is particularly affected by misclassification because of the *bidding process* used to secure contracts. When a contractor sits down to calculate how much he's going to bid a project for, there are several cost factors they consider. Essentially all of these factors are fixed – which is to say they are approximately the same for everyone – the only exception being the cost of labor. For example, the typical construction bid would be calculated to include the following factors:

1. Material costs (Price of lumber, price of a bucket of paint, etc.), which is approximately the same for everyone.

2. Overhead (The time it takes to look at the blueprints, calculate the bid, keep their office running, etc.), which is approximately the same for everyone.

3. Profit (The percent of your bid that you tack on at the end which is the money you put in your pocket at the end of the job), this percentage is approximately the same for everyone bidding work in a particular industry.

4. Labor costs. This is the only real variable in the equation. Therefore, the person who can cut their labor costs down the most is typically going to be the low bidder and ultimately awarded the contract for the work. When one company can misclassify their workers as independent subcontractors instead of as employees, and can avoid paying workers' compensation premiums (and payroll taxes such as unemployment, social security, etc.) they can cut up to 30% of their labor costs off the top and in doing so give themselves a tremendous, and thoroughly unfair, advantage over honest, law-abiding employers who's workforce is made up of properly classified and insured employees.

This is a *fairness in contracting* issue. Honest employers are being forced to either adopt this unscrupulous business model themselves or they are being simply forced out of business completely. Employers who lawfully classify their workers as employees cannot secure contracts for work through the construction bidding process because they are competing against dishonest employers who game the system by misclassifying their workers in order to cut labor costs. HB 79 will rectify this problem by creating a clear definition of what an "independent contractor" truly is, and what "misclassification" is so that there is no ambiguity at all and everyone bidding the project is doing so through a fair and equitable system.

Essentially, we currently have a system in place that incentivizes employers to *gamble their pocketbooks* (their ability to be the "low bidder" and secure contracts for their company) *against the lives of their workers* (hoping that none of the uninsured workers performing services for their company suffers a catastrophic injury while working on the project they secured through use of this unscrupulous business model). This absolutely is not the type of business model we should see promoted in our State. Again, HB 79 will rectify this problem by creating a clear definition of what an "independent contractor" truly is, and what "misclassification" is so that there is no ambiguity at all.

It is also important to note that workers' compensation does not solely exist to protect the workers hurt on the job – it also serves to protect *employers* when there is an injury to an employee by serving as the "exclusive remedy provision" for that worker. This means that an injured worker cannot sue their employer when they are hurt at work (workers' compensation is the "exclusive remedy"). However, when a worker is incorrectly and fraudulently classified as an "independent contractor" instead of as an employee and then gets hurt, then there is no workers' compensation policy in place to serve as the exclusive remedy and that employer is now considered an "uninsured employer" and that misclassified worker could potentially sue that employer. So workers' compensation is in place to protect not just the employees – but the employers also.

Therefore, having laws in place that clearly define what an “independent contractor” is and what “misclassification” is serves to help protect workers from assuming liability for injury at work – something I think we can all agree is a moral obligation of our society – but it also helps protect employers from being sued by misclassified workers who are injured while working for them.

HB 79 will not only help protect the working men and women of Alaska by preventing them from being victimized by this unscrupulous business model but it will also allow honest, law-abiding construction employers to compete on a fair and equitable playing field. HB 79 is clearly good for both business and labor, and the IUPAT strongly urges you to support its passage. Thank you for your time and consideration of this important matter.

Respectfully,

A handwritten signature in black ink that reads "A. Bronson Frye". The signature is written in a cursive style with a horizontal line underlining the name.

A. Bronson Frye
Business Representative, IUPAT Alaska Local 1959

Chairman Claman
Vice-chairman Fansler
Members of the Judiciary Committee

I support HB79, the omnibus Workers Comp Bill. I support that the bill includes a better definition of independent contractors, the bill allows digital filing of claims and the worker can get medical services more timely. I believe this bill will also allow more transparency in the process.

I think HB79 will benefit both employers and workers.

Laura Bonner
Anchorage



Alaska State Home Building Association

April 13, 2017

Rep. Matt Claman, Chairman
House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Subject: HB79, Workers' Compensation

Dear Chairman Claman:

Thank you for the opportunity to comment on a proposed amendment to HB79, workers' compensation. The Alaska State Home Building Association has been closely following HB79 this session, and has endeavored to keep our members informed about the bill and its effort to define "independent contractors".

In February, our State Board of Directors met with Governor Walker to express some concerns regarding the bill. His office connected us with Commissioner Heidi Drygas and Director Marie Marx. Through their efforts, amendments in the House Labor & Commerce Committee addressed some shortcomings we saw within the initial version. Please allow me to express appreciation to everyone involved for those efforts.

There are many different examples and circumstances that create independent contracting relationships in the business world, and we respect the concerns and interests of fellow stakeholders. For that reason, this letter is express support for specific amendment language (shown below) relating to the definition of an independent contractor. The amendment addresses concerns of the NFIB and Alaska Trucking Association, and it also creates a standard that fits with typical construction contracting.

"On page 16, beginning at line 28, amend CSHB79(L&C) as follows:

(H) meets at least two of the following criteria:

- (i) **the person is responsible for the satisfactory completion of the services that the person has contracted to perform and is subject to liability for a failure to complete the contracted work, or** the person maintains liability insurance or other insurance policies necessary to protect the employees, financial interests, and customers of the person's business;
- (ii) the person maintains a business location, **or a business mailing address** separate from the location ,of the individual for whom, or the entity for which, the services are performed;

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(iii) **the person provides contracted services for two or more different persons within a 12 month period, or** the person engages in **any kind of** business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contracts to provide similar services;

~~(iv) the person holds a bank account in the name of the business entity for the purpose of paying business expenses or expenses related to the work or services performed;~~

~~(v) the person engages in a trade, occupation, profession, or business to provide services that are outside the usual course of business for the individual for whom, or the entity for which, the services are performed.”~~

With the inclusion of this amendment, this letter is also to express support for HB79 in its entirety. We will continue to monitor the progress of this bill through the process, and will update our position and our comments based on any further changes to the bill.

Thank you and members of the House Judiciary Committee for considering the concerns of residential contractors as part of your deliberations.

Sincerely,



Aaron Welterlen, President
Alaska State Home Building Association

CC: Commissioner Heidi Drygas

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946

www.aktrucks.org

The authoritative voice of the trucking industry in Alaska

April 13, 2017

Rep. Matt Claman, Chairman
House Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: HB79 Workers Compensation Omnibus

Dear Chairman Claman,

We are pleased to support the amendments that you propose as Amendment #8 to CSHB79 relative to paragraph (H) dealing with independent contractors.

This amendment will allow for the orderly conduct of traditional business relationships that have existed for decades. Thank to you and to Commissioner Drygas and Director Marx for their willingness to work through the issues to a satisfactory conclusion.

I will be available on line for question at the HJUD hearing at 5:30 pm.

Sincerely,



Aves Thompson
Executive Director

Cc: Commissioner Heidi Drygas, DOLWD
Director Marie Marx, Division Director, WC Division

NFIB

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ALASKA

April 13, 2017

The Honorable Matt Claman, Chair
House Judiciary Committee
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Bill 79

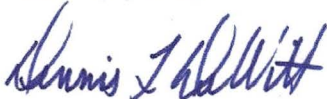
Dear Representative Claman:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully withdraw our opposition to House Bill 79. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

We have reviewed Representative Reinbold's propose amendment to Section 28 that would amend AS 23.30.230(a). We have reviewed the amendment and believe that it reflects what an independent contractor is and should be enacted into law as the amendment is written.

NFIB appreciated the efforts of Representative Reinbold and yourself in developing this language that protects Alaska's small businesses and independent contractors from unnecessary government intrusion into their ability work together and contribute to our economy.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Cc: NFIB/AK Leadership Council
Representative Reinbold

Law Offices of
Kalamarides & Lambert

750 WEST 2ND AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
(907) 276-2135 TELEPHONE
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LEGAL ASSISTANTS

DOUGLAS JOHNSTON
KRIS MASON

April 3, 2017

Representative Gabrielle Le Doux
State Capitol, Room 412
Juneau, AK 99801-1182
email: Representative.Gabrielle.LeDoux@akleg.gov

Re: Alaska Legislature House Bill 79

Dear Representative LeDoux:

I have reviewed House Bill 79 and have the same concerns set forth in Mr. Jensen's letter of March 31, 2017.

I have been representing claimants for almost 41 years. I am very concerned with the proposed amendment for AS 23.30.205(a) which adds guilt for the crime of theft by deception for a person who "knowingly fails to report a material fact". The problem is what constitutes "a material fact" and who is subject to this provision.

I agree with his proposed solution on page two of his letter.

Since I was unfortunately unable to hear the testimony regarding the attorney fees for claimant's counsel, I can only go with Mr. Jensen's comments. I do believe that the current law regarding attorney fees for claimants counsel is more than adequate. The Alaska Workers' Compensation Board had the authority to award the attorney fees and judge appropriately the amounts to be awarded.

Sincerely,

KALAMARIDES & LAMBERT



Joseph A. Kalamarides

Law Offices of
Michael J. Jensen

12350 Industry Way, Suite 208
Anchorage, Alaska 99515

Tel (907) 277-8000
www.alaskaworkerscomp.com
jensenlaw@alaska.net

March 31, 2017

Representative Gabrielle LeDoux
State Capitol, Room 412
Juneau, AK 99801-1182
email: Representative.Gabrielle.LeDoux@akleg.gov

Re: Alaska Legislature House Bill 79

Dear Representative LeDoux,

Today I listened to the Judiciary Committee hearing regarding HB 79. I wish to thank you for your very poignant questions. Your questions raised significant concerns and gave voice to injured workers and the many difficulties they face getting paid their compensation benefits and being able to obtain the medical treatment necessitated by their injuries.

As noted the proposed legislation does not make it more likely that necessary treatment is promptly authorized. If anything it seems to encourage insurers to deny recommended treatment in order to avoid the possibility of incurring a penalty.

The amendment proposed for AS 23.30.250(a) adds guilt for the crime of theft by deception for a person who "knowingly fails to report a material fact." This amendment is proposed in order to address a recent Supreme Court decision. The trouble is there is no definition as to what constitutes "a material fact" and whether the failure to report extends to others besides the worker such as physicians, co-workers, spouses, representatives, etc. The vagueness of this language would seem to even extend potential guilt for this crime to employers, employers' representatives, defense attorneys, investigators and physicians selected by employers and their insurers. The vagueness of this language is fraught with potential risk for anyone involved in a pending compensation claim. For example, can a worker's physician be subject to an accusation of theft by deception simply because the physician did not report all of his patient's preexisting conditions or symptoms? Can an adjuster or an investigator be accused of this crime for not disclosing a video of the worker which may or may not support a worker's case? Can an attorney for the insurer or claimant be subject to prosecution for not disclosing an attorney client privilege? Can a spouse be subject to such an accusation for not disclosing anything that an insurer may consider material? The problem with this is that there is no definition of what is "a material fact" or to whom sure disclosure extends.

A better solution to addressing the concern raised by the Supreme Court's decision is simply to state 'a person receiving temporary total disability benefits must disclose if they are gainfully employed. A person failing to disclose this fact is guilty of theft by deception.'

You correctly pointed out the lack of counsel who are willing to represent claimants. During this discussion the Division expressed its commitment to reduce litigation costs and highlighted the assistance the Division staff provides to the unrepresented. Yet, the Division staff will not assist these workers in proving their claims such as obtaining physician testimony or other evidence necessary for hearing. Without adequate representation these workers have little chance of success and the notion of a 'fair' hearing is meaningless.

The Division expressed concerns regarding the cost of attorney's fees. It focused on claimants' counsel. Yet, attorneys fees paid to insurers' attorneys are almost 2 ½ times greater than the fees paid on behalf of workers. Attorney's fees have been consistently costing employers millions of dollars more than the fees paid to claimants' representatives. In 2015 the employer attorney fees were over 10 million dollars more than the employee attorney's fees paid.

I have represented injured workers in Alaska for over 33 years and in my personal view a significant driver behind the litigation costs is the incessant efforts to 'streamline' and 'make more efficient' the compensation system. It seems that every year the Board adopts and the Lt. Governor approves regulations that serve only to further complicate workers' ability to have their cases heard.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Jensen", with a long, sweeping flourish extending to the right.

MICHAEL J. JENSEN

NFIB

The Voice of Small Business.®

ALASKA

February 17, 2017

The Honorable Sam Kito, Chair
House Labor & Commerce Committee
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Bill 79

Dear Representative Kito:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully share our opposition to House Bill 79. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

House Bill 79 attempts to craft a definition of an independent contractor for purposes of the workers compensation program. We believe it is far too narrow and prevents many Alaskan entrepreneurs functioning as the independent contractors they truly are. The proposed definition in Section 31, adding AS 23.30.230(a)(11) will lead to many more specific exemptions to the current law as it does not allow the flexibility necessary for small businesses and independent contractors to function in a customary and reasonable manner in Alaska.

Small businesses often contract with individuals to work as part of a team for a limited time to address a task or proposal when the small business may not have a specific expertise. Often they will contract with an individual that, in the same course of business, may have expertise to add to a project, such as preparing a contract bid. And many times independent individuals may maintain offices in the same location, perhaps even sharing rent in a suite of offices.

The Internal Revenue Service (IRS) has had a standard dealing with the definition of an independent contractor for many years. It has been litigated and is a fairly well understood standard. We suggest that Alaska use that standard for purposes of workers compensation coverage. I have attached information on that standard for your review.

The IRS standard also has a safe harbor found in Section 530. We believe that Alaska should also have a safe harbor process to accommodate new industries as our employment market changes. An example is current legislation that deals with transportation network company drivers.

The Honorable Sam Kito
February 17, 2017
Page 2

We appreciate your consideration of our concerns.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Cc: NFIB/AK Leadership Council
House Labor & Commerce Committee
Commissioner Drygas, Department of Labor and Workforce Development

Attachments

NFIB

The Voice of Small Business.®

ALASKA

March 5, 2017

The Honorable Heidi Drygas
Department of Labor & Workforce Development
P.O. Box 111149
Juneau, Alaska 99811-1149

RE: Definition of Independent Contractor

Dear Commissioner Drygas:

On behalf of the National Federation of Independent Business/Alaska, I want to thank you for taking the time to meet with Chris Nettels and me to discuss the proposed definition of an independent contractor for purposes of the workers compensation program. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

We appreciate your desire to have a simple and concise definition of an independent contractor. As we have agreed, it is not a simple task. The definition proposed in HB 79 and SB 40 would include many valid independent contractors under its terms. Simply, it is far too broad.

Last fall, NFIB/Alaska polled its membership. Approximately 60% of our members objected to any type of legislation that might more tightly define what constitutes an independent contractor for purposes of workers compensation. We asked this question in response to HB 307 introduced in the 29th Legislature that included a similar definition to the one found in the above noted bills.

After discussions with the NFIB/Alaska Leadership Council, we request that you recommend deleting the definition from HB 79 and SB 40.

If that is not possible, we recommend the following to replace the current language proposed in Section 31:

An independent contractor generally

- Maintains a business license
- Maintains a contract governing the relationship between parties
- Files or intends to file business or self-employed income tax returns
- Maintains freedom to seek out other business opportunities
- Has direct control in meeting and performing contract obligations
- Compensation is based on factors relating to contract work

Commissioner Drygas
March 5, 2017
Page 2

- Maintains ability to hire, fire, control and provide benefits to persons required to perform the work for which the person has contracted.
- Has the opportunity to realize a profit or loss based on the relationship of business receipts and expenses
- Functions consistent with industry practices

We believe these criteria will offer a reasonable guide without forcing independent contractors to surrender their freedom and become employees. It will also assist small businesses that use independent contractors to expand their capabilities to remain competitive in the marketplace.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Cc: NFIB/AK Leadership Council
House Labor & Commerce Committee
Senate Labor & Commerce Committee

March 14, 2017

The Honorable Sam Kito III
Alaska House of Representatives
Alaska State Capital Building
Juneau, Alaska

Subject: HB79, workers' compensation

Dear Representative Kito:

This letter is offer written testimony in regards to HB79, the omnibus workers' compensation bill pending in the House Labor & Commerce Committee. As the Facility Administrator for the Alaska Surgery Center, please know my appreciation for your consideration of these comments.

Section 17 of HB79 contains language that adds additional reference guides from the federal Centers for Medicare and Medicaid Services. We are concerned about the inclusion of the references for both the Hospital Outpatient Prospective Payment System and the Ambulatory Surgical Center Payment System. Our request is that these two references be removed from the bill, and I would like to explain why.

First, basing workers' compensation medical compensation rates on Medicare and Medicaid is fundamentally flawed. Medicare and Medicaid are governmental programs for patients who are generally elderly, frail, physically challenged, or with special needs. Their medical needs are focused generally on long-term care for chronic conditions. These patients are deserving of care, and we are committed to helping them.

Workers' compensation patients are individuals covered under commercial insurance rates, but have been injured in the course of their employment. Based on their commercial insurance coverage, the expectation is that they will receive medical procedures for as full of a

recovery as possible in order for them to return to work. This is an entirely different set of patients than Medicare and Medicaid.

Second, Section 17 has been presented by the Department of Labor as a way to update the medical reimbursement regulations without going through the public process of hearings and review. While this may offer some efficiency in making changes, the entire medical system in Alaska is still adjusting to the new reimbursement system that has existed barely one year.

A major change in workers' compensation for medical providers was enacted in 2014 with the passage of HB316, which changed the entire reimbursement system. HB316 shifted reimbursement rates from a legislatively controlled statute rate over to a regulatory system within the Department of Labor. The new regulations for the medical fee schedule became permanent in March 2016.

An annual system of review was enacted by HB316, and this has yet to occur for the newly adopted regulations. Before making further changes in statute to the workers' compensation medical reimbursement system with more Medicare and Medicaid reference materials, it would help to first complete a discussion and review of the impacts from the new regulatory system.


These new regulations have lowered rates for medical reimbursement in workers' compensation. Last summer my public testimony to the Medical Services Review Committee (MSRC) estimated a loss of over \$2 million per year. We are all seeing significant reductions, and we have yet to fully realize what impact this will have on the availability of medical services for injured workers.

Again, our request is that Section 17 be amended to remove the addition of Medicare and Medicaid references for Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System. Until there is a review of the current system and its impacts, our fear is that we are only further institutionalizing more complexities and flawed premises into a system that is still adjusting to recent changes.

The Alaska Surgery Center is committed to working with the Legislature and the Department of Labor on creating affordable and responsive medical services for our state's workers' compensation system. We are dedicated members of the community, and we ask that you consider our concerns.

Thank you for this opportunity to offer comment.

Sincerely,


Kevin Barry, Facility Administrator
Alaska Surgery Center

CC: Commissioner Heidi Drygas

Dear Representative Knopp,

HB 79 and SB 40 attempt to add new definitions intended to force workers compensation coverage on independent contractors by amending AS 23.30.230(a).

Many small businesses use independent contractors/consultants to increase their ability to work on jobs that are limited in time or specific in scope. Many sole proprietors function as independent contractors bringing additional skills and ability to Alaska's small businesses. This allows small businesses working on small margins to be successful in Alaska's economy.

While the Dept of Labor & Workforce Development has suggested that there are problems with some folks not properly classifying some employees, all their examples shared with us were resolved under current law. We believe enforcing existing law makes more sense than creating a new definition of an independent contractor that does not work for many independent contractors or small businesses.

Forcing small businesses to cover contractors and consultants under their workers' compensation insurance needlessly increases costs for those businesses. It limits the freedom of independent contractors and reduces their income as the small business will be forced to move dollars from the independent contractor to the insurance carrier.

Sincerely,

Bradley Cross

Kenai, AK 99611

Dear Representative Knopp,

HB 79 and SB 40 attempt to add new definitions intended to force workers compensation coverage on independent contractors by amending AS 23.30.230(a).

Many small businesses use independent contractors/consultants to increase their ability to work on jobs that are limited in time or specific in scope. Many sole proprietors function as independent contractors bringing additional skills and ability to Alaska's small businesses. This allows small businesses working on small margins to be successful in Alaska's economy.

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Forcing small businesses to cover contractors and consultants under their workers' compensation insurance needlessly increases costs for those businesses. It limits the freedom of independent contractors and reduces their income as the small business will be forced to move dollars from the independent contractor to the insurance carrier.

Sincerely,

Chuck Cook

Soldotna, AK 99669

Dear Representative Knopp,

Please do not support HB 79 and SB 40 attempting to add new definitions intended to force workers compensation coverage on independent contractors by amending AS 23.30.230(a). The current law is adequate. Taking independent contractor status away from these people will force them to change their business structure. Forcing them to pay insurance companies and not allowing their legitimate deductions allowed under the law. All of this will reduce the amount of money going back into the economy.

Many small businesses use independent contractors/consultants to increase their ability to work on jobs that are limited in time or specific in scope. Many sole proprietors function as independent contractors bringing additional skills and ability to Alaska's small businesses. This allows small businesses working on small margins to be successful in Alaska's economy.

While the Dept of Labor & Workforce Development has suggested that there are problems with some folks not properly classifying some employees, all their examples shared with us were resolved under current law. We believe enforcing existing law makes more sense than creating a new definition of an independent contractor that does not work for many independent contractors or small businesses.

Forcing small businesses to cover contractors and consultants under their workers' compensation insurance needlessly increases costs for those businesses. It limits the freedom of independent contractors and reduces their income as the small business will be forced to move dollars from the independent contractor to the insurance carrier.

Sincerely,

David Bunts
President
Sterling Custom Homes

Soldotna, AK 99669

Dear Representative Knopp,

As a small business owner I want to protect my employees that regularly work for me. But I do not feel it is reasonable to force me to cover the insurance costs of independent contractors who perform periodic service work or very sporadic contract work for us. When I bought this business in 2003 my work comp bill was around \$5,000 annually. Since that time insurance rates have skyrocketed and I presently pay over \$16,000 per year in Work Comp coverage. About 8 years ago we lost our coverage. We were placed in the assigned risk pool for 4 years and were paying over \$22,000 for the same coverage. I believe independent contractors should be responsible for their own insurance and should not be required to be covered as employees esp for small businesses.

HB 79 and SB 40 attempt to add new definitions intended to force workers compensation coverage on independent contractors by amending AS 23.30.230(a).

Many small businesses use independent contractors/consultants to increase their ability to work on jobs that are limited in time or specific in scope. Many sole proprietors function as independent contractors bringing additional skills and ability to Alaska's small businesses. This allows small businesses working on small margins to be successful in Alaska's economy.

While the Dept of Labor & Workforce Development has suggested that there are problems with some folks not properly classifying some employees, all their examples shared with us were resolved under current law. We believe enforcing existing law makes more sense than creating a new definition of an independent contractor that does not work for many independent contractors or small businesses.

Forcing small businesses to cover contractors and consultants under their workers' compensation insurance needlessly increases costs for those businesses. It limits the freedom of independent contractors and reduces their income as the small business will be forced to move dollars from the independent contractor to the insurance carrier.

Sincerely,

James Delker DVM- Twin Cities Vet Clinic

Soldotna, AK 99669

Dear Rep. Matt Claman

My name is David Randall, and I am a Podiatrist specializing in Foot and Ankle surgery.

I am writing with concerns about the adoption of HB79. Please let me briefly explain that concern. First some brief background about the current healthcare delivery system. CMS/Medicare strongly favors large hospital based healthcare delivery systems over small business medical practices with regards to reimbursement. Perhaps like all parts of big government regulations and reimbursement favor Hospital institutions to the detriment of a small business medical practice. What does this mean? Well essentially it means that a Hospital is payed more for doing the exact same outpatient work than a small business medical practice or a private practitioner. This extends in difference to Ambulatory Surgery Centers, so essentially if an outpatient procedure is done at a hospital the hospital will receive a larger (significantly) reimbursement than a Ambulatory Surgery Center receives despite the procedure being exactly the same.

What does this mean in practical terms? Well if you have discussed the ease of accessing care for one of your constituents with Medicare they will likely tell you that it is not easy for them to find a provider who accepts Medicare. Thus their access to care is limited - primarily to a choice between the Hospital based Medicare Clinics. Why? It is very difficult for a small business medical practice to keep the lights on if that practice has too large of a Medicare population (again they get paid less than the hospital based clinic for the same work). Thus the majority of small medical practices have either elected not to see Medicare or to significantly limit the number of patients with Medicare that they will see.

So what does this have to do with HB79?

As medical practitioners, we want to continue helping injured workers recover and return to work. One of the unanticipated consequences of the passage of HB79 will be to severely limit access to care for injured workers.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago. Just as a reminder those regulations for some reason also favored the large hospital systems. Cost saving regulations cut the reimbursement to a Ambulatory Surgery Center significantly more than a Hospital Outpatient Surgery - For doing the Same Procedure!!!

Truly before reimbursement is reduced further I think it would be nice for an explanation to all stakeholders as to why reimbursement to an ASC needed to be reduced so much more than for a Hospital Outpatient Surgery Department - for doing the same work.

Perhaps if the goal is saving money we should try to avoid the unintended consequence of moving outpatient surgeries out of the more affordable Ambulatory Surgery Centers to the more expensive Hospital Outpatient Surgery Departments. The more reimbursement is reduced to the Ambulatory Surgery Centers as well as other small business based medical practices - the less those more affordable entities will be able to participate in caring for that patient population.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured

workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

Respectfully,
David Randall, DPM

My name is Steve Schaffer MD, and I am in the practice of Alaska Center for Ear, Nose and Throat (ACENT).

As medical practitioners, we want to continue helping injured workers recover and return to work.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

Steve Schaffer
Sent from my iPhone

My name is Brion Beerle, and I am in the practice of anesthesiology. I have been in practice in Anchorage for over 20 years and manage a practice primarily in an outpatient surgical setting and we take care of a large number and variety of workers compensation patients. I have played an active role in Alaska medicine and served as president of the Alaska State Medical Association in 2011.

I am an advocate of medical fee transparency and the necessity of placing all providers of medical services, both hospital and outpatient, on parity with one another to create the necessary market forces to drive medical costs down to a sustainable level. As medical practitioners, we want to continue helping injured workers recover and return to work. HB79 will place this ability and freedom of choice in serious jeopardy.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems. This legislation essentially creates a marginalized two tiered payment system with strong discrimination against medical care in an ambulatory setting, which is presently delivered at dramatically reduced rates when compared with those of hospitals. It is unlikely that this proposed legislation will do anything but raise costs of insuring workers and further divide our medical payment system and raise costs of care while also decreasing access.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Thank you for your service in our legislature and please feel free to contact me for further information and perspective,

Brion Beerle, MD

My name is Chris Manion, M.D., and I am in the practice of orthopedic surgery at Orthopedic Physicians.

As medical practitioners, we want to continue helping injured workers recover and return to work.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

Additionally, I believe if you look at the reimbursement to Ambulatory Surgery Centers it is significantly below the reimbursement for the same procedures at our local hospitals. They are already the low cost alternative to the hospitals. They provide a better patient experience, lower cost and higher quality than what is received at any hospital in Alaska. This is not the location to carve out cost savings.

I hope to have your support in objecting to HB79. Thank you for your time.

Sincerely,
Chris Manion, M.D.
Orthopedic Surgeon at OPA Anchorage.

My name is Kerrie R Bossard, MD, and I am in the practice of colon and rectal surgery.

As medical practitioners, we want to continue helping injured workers recover and return to work.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

Thank you for your consideration.

Kerrie R. Bossard, MD

Sent from my iPhone

Good morning;

My name is Jeremy Bon, and I am the Director at a small surgery center in Kenai.

As medical practitioners, we want to continue helping injured workers recover and return to work.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

Jeremy Bon, RN

Director of Nursing

Surgery Center of Kenai, LLC

Kenai, Alaska 99611



My name is Edwin D. Vyhmeister MD, and I am in the practice of Hand and Upper Extremity Surgery. I treat many patients injured on the job.

As medical practitioners, we want to continue helping injured workers recover and return to work.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

To Honorable Rep Matt Claman, Rep Zach Fansler, Rep Jonathan Kriess-Tomkins, Rep Gabrielle LeDoux, Rep David Eastman, Rep Chuck Kopp, Rep Lora Reinbold

My name is Robert Hall MD and I have been in the practice of orthopedic surgery in Anchorage for over 20 years. During that time I have taken care of a large number of Alaskans with workers compensation injuries. I am also a member of the Medical Services Review Board which provides advice and guidance to the Division of Labor on reimbursement issues regarding workers compensation patients.

One portion of HB 79 adds medical reference guides from the Centers for Medicare and Medicaid Services into state law in order for them to be used to determine reimbursement for workers compensation patients. Specifically, the aim is to change the way that ambulatory surgery centers are paid relative to what hospitals are paid for the same service. Many procedures or surgeries can be performed in either a hospital or an ambulatory surgery center. Ambulatory surgery centers are recognized as providing a more efficient, cost effective setting than hospitals with better patient outcomes. There should be a push to have more procedures and surgeries done in surgery centers, not less. Medicare rules were written for a very different set of patients than workers compensation patients and are often not appropriate for the work comp setting. Medicare rules reimburse surgery centers at a lower rates and also do not allow reimbursement for many procedures or surgeries that are currently routinely done in ASCs. Changing to medicare guidelines will drive patients out of the low cost environment of surgery centers and into the higher cost arena of hospitals. This would be in direct conflict with the goal of cost containment in workers compensation in Alaska.

Further, HB 79 was drafted by the Department of Labor without public input and without input from the MRSC. in the recent WC fee schedule reform the MRSC stated that it was their intent that surgery centers be reimbursed at the same level as hospitals for performing the same service. Preliminary data appears to show that the effect of the fee schedule reform had a far more adverse effect on ASC's than hospitals already. The DOL wants to have the ASC's absorb even higher cuts which would be out of proportion to other stakeholders. The MRSC also wanted wait for a reasonable period to gauge the effects of the fee schedule reform before making more changes. There are MRSC meeting schedules this summer where this can be assessed and recommendations made.

My understanding is that the recommendation for the changes to HB 79 came from an outside consultant hired by the Department of Labor to assist with workers compensation issues. This change has already been placed into the workers compensation fee schedule for 2018 by the Dept of Labor even prior to HB 79 being voted on by the legislature. This appears to show a lack of respect for the legislative process and the MRSC by the DOL. I feel that it is more appropriate that before making changes of this magnitude that all stakeholders, insurers, labor representatives, hospitals, ambulatory surgery centers, physicians etc all have a chance for input.

Therefore I would request that you either not support HB 79 or support removing the section that applies to medicare fee schedules.

Sincerely,

Robert J Hall MD

Anchorage, AK

My name is Marc Kornmesser, M.D., and I am a partner at Orthopedic Physicians Anchorage. I am an orthopedic upper extremity surgeon and I see a lot of injured workers.

I want to continue helping injured workers recover and return to work.

Please do not advance HB79 with the federal medical reference guides for Hospital Outpatient Payment Systems and Ambulatory Surgery Center Payment Systems.

All stakeholders, including medical providers and the Department of Labor, need to reach a better understanding of the impacts from new medical reimbursement regulations adopted 12 months ago.

Adopting federal reference guides for Medicare and applying them to medical services for injured workers creates confusion for both medical providers and insurers. Medicare patients and injured workers are two distinctly different types of patients, and the billing and coding procedures within these federal reference guides conflict with commercial insurance for workers' compensation.

As a medical practitioner, I am concerned about the future ability of injured workers to receive the care they need if these federal reference guides are adopted into law without a more meaningful opportunity to discuss these impacts with both the Legislature and the Administration.

Additionally, I believe if you look at the reimbursement to Ambulatory Surgery Centers it is significantly below the reimbursement for the same procedures at our local hospitals. They are already the low cost alternative to the hospitals. They provide a better patient experience, lower cost and higher quality than what is received at any hospital in Alaska. This is not the location to carve out cost savings.

I hope to have your support in objecting to HB79. Please vote against HB 79.

Thank you for your time.

Respectfully,

Marc J. Kornmesser, MD

Workers' Compensation: HB 79
House Judiciary Committee
March 31, 2017



ALASKA DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
COMMISSIONER HEIDI DRYGAS



Workers' Compensation

Quick

Efficient

Fair

Predictable

Reasonable
cost



Workers' Compensation

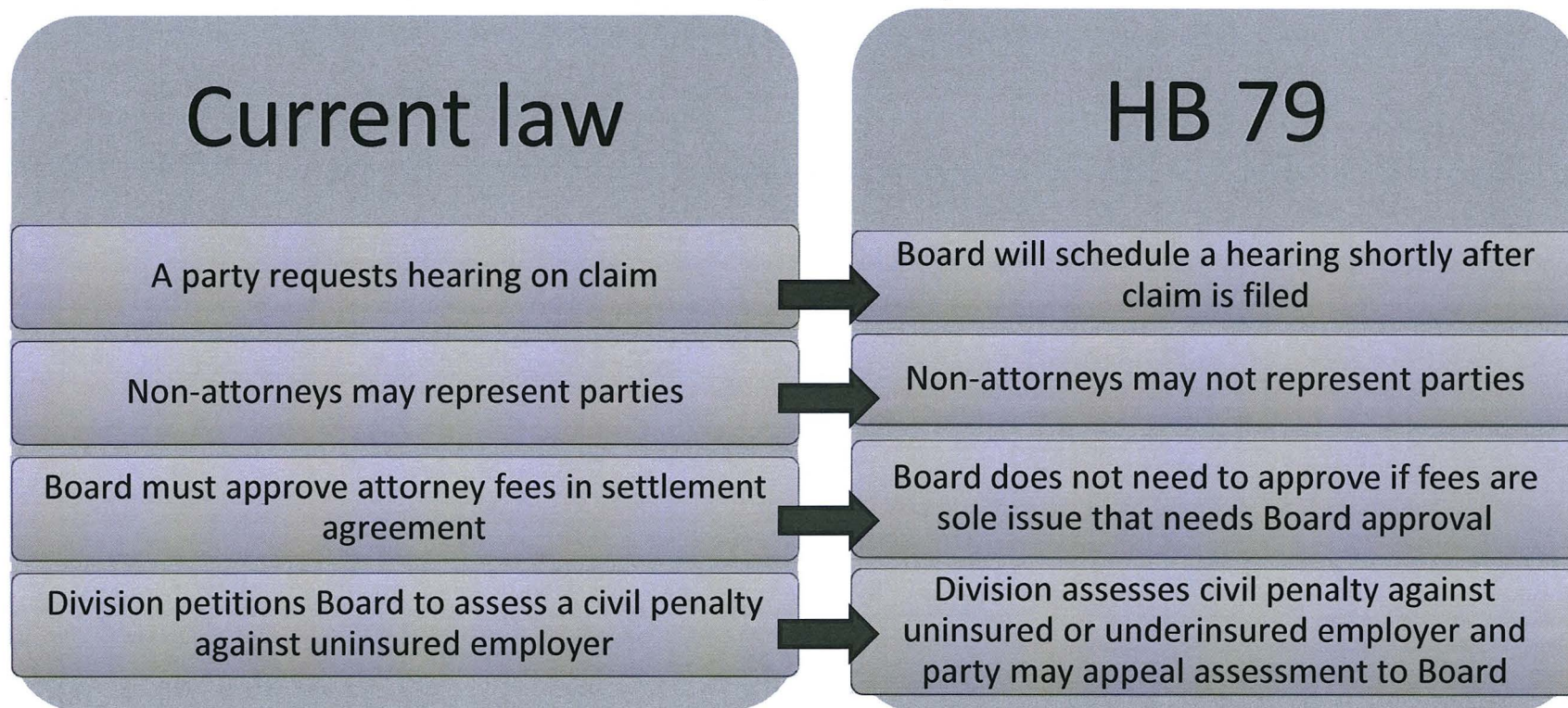
HB 79: Workers' Compensation Efficiencies Bill

- Speed up dispute resolution
- Improve the delivery of medical care to injured workers
- Strengthen provisions to prevent workers' compensation fraud by employers and employees
- Reduce administrative costs
- Ensure adequate funding for the administration of the workers' compensation and workers' safety programs



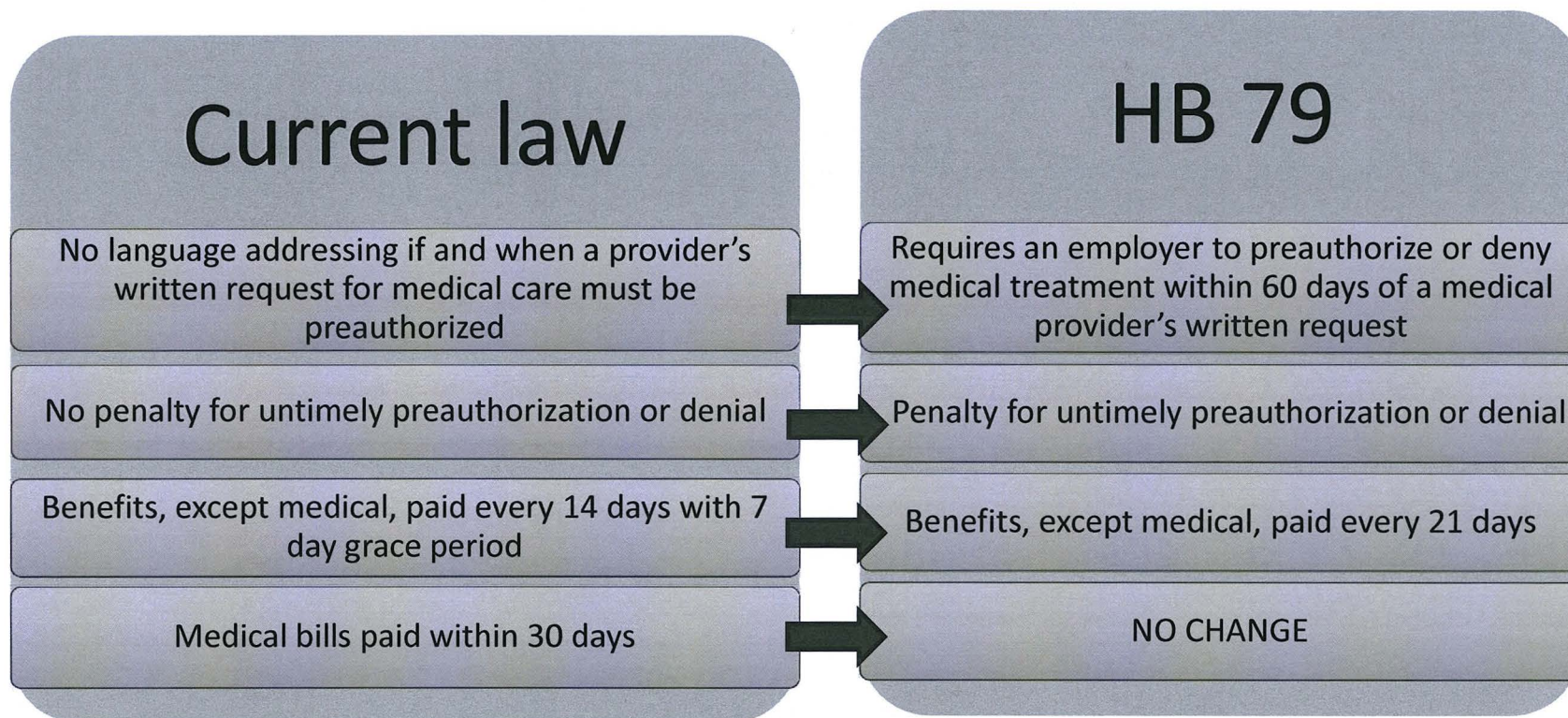
Workers' Compensation

SPEED UP DISPUTE RESOLUTION: SECS. 8-10, 16-18, 36



Workers' Compensation

IMPROVE THE DELIVERY OF MEDICAL CARE: SECS. 14, 20, 22-23



Workers' Compensation

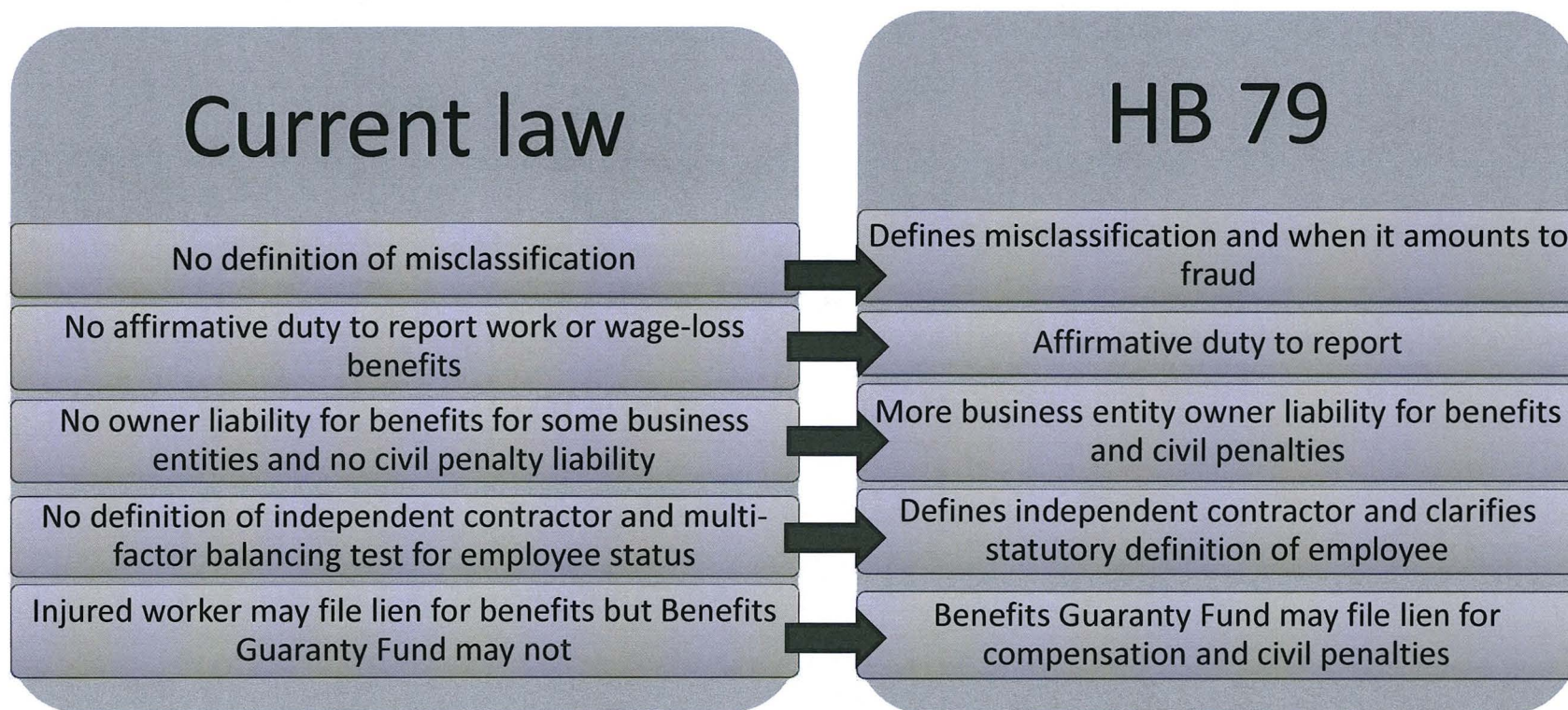
Why the Division is Tackling Misclassification

- Worker safety
- Risk of uninsured losses
- Law-abiding employers bear greater financial burden



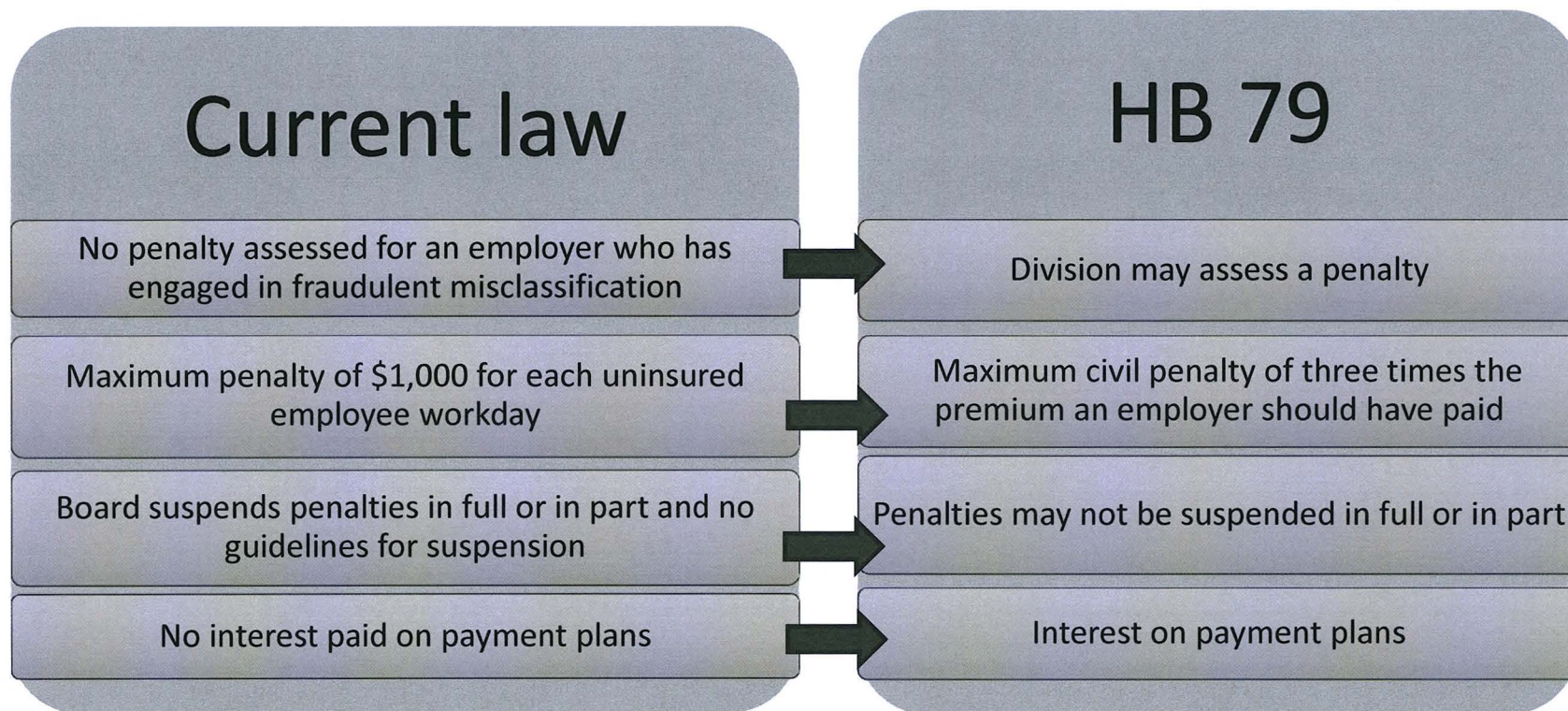
Workers' Compensation

STRENGTHEN FRAUD PROVISIONS: SECS. 7, 9, 11-12, 25-26, 28, 31-35, 37



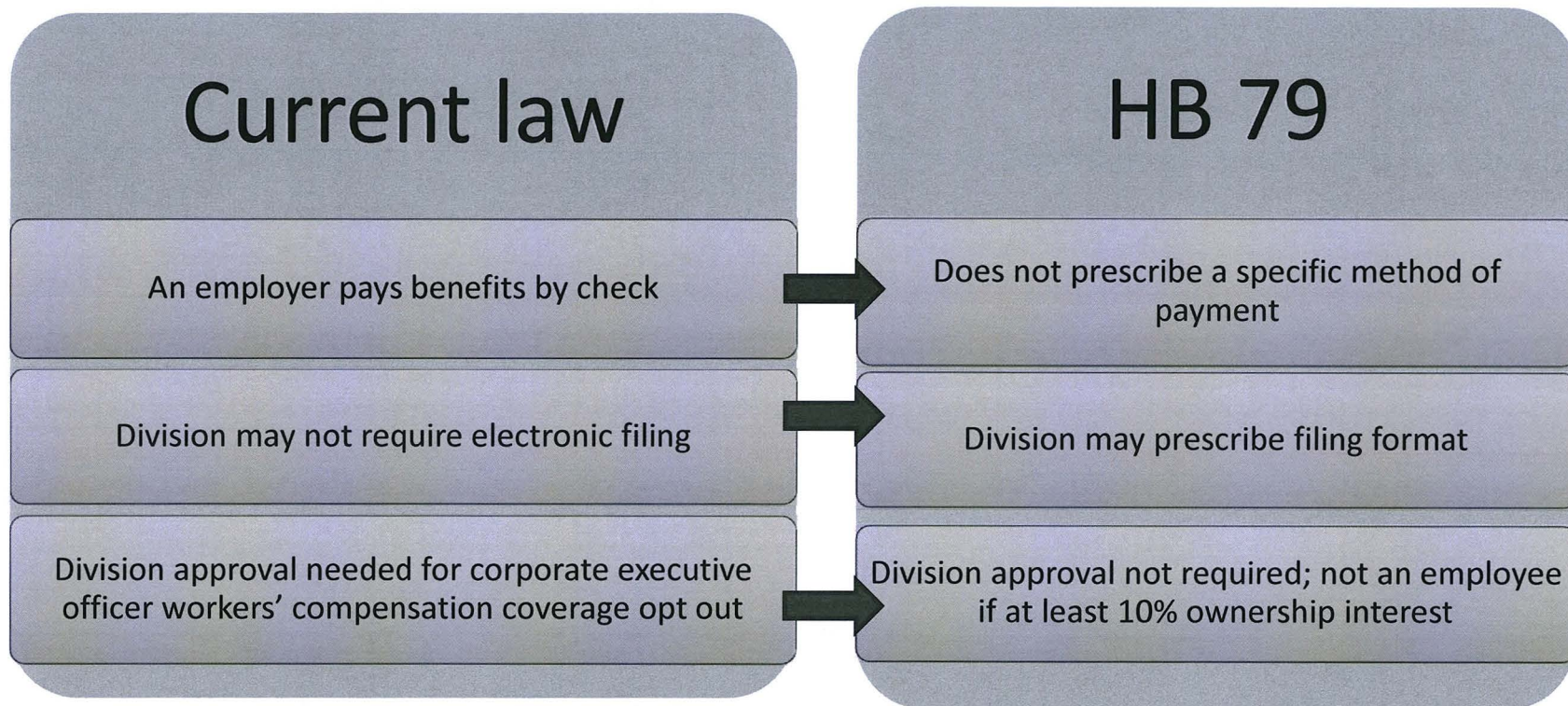
Workers' Compensation

STRENGTHEN FRAUD PROVISIONS CONT.: SECS. 7, 9, 11-12, 25-26, 28, 31-35, 37



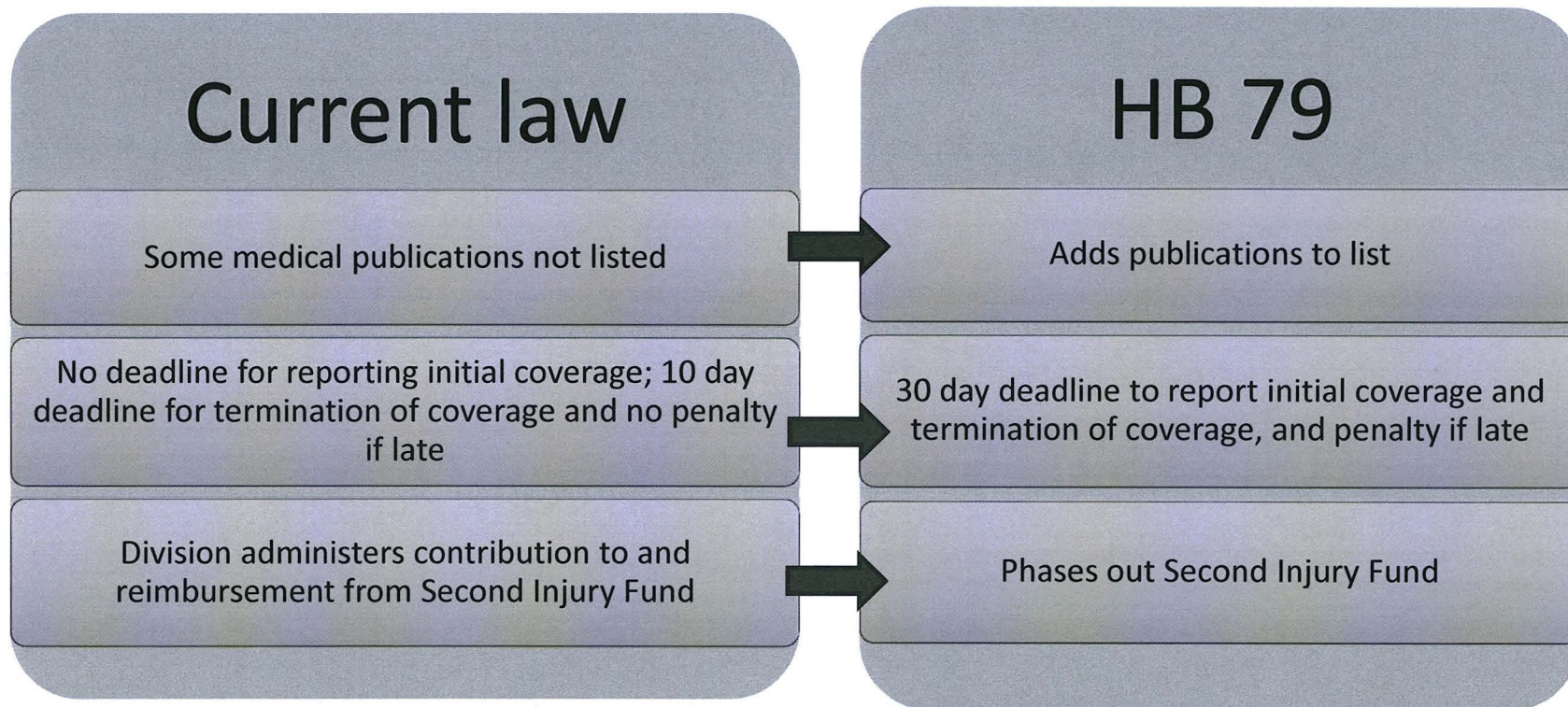
Workers' Compensation

REDUCE ADMINISTRATIVE COSTS: SECS. 2-6, 13, 15, 19, 21, 24, 27, 29-30, 38, 40



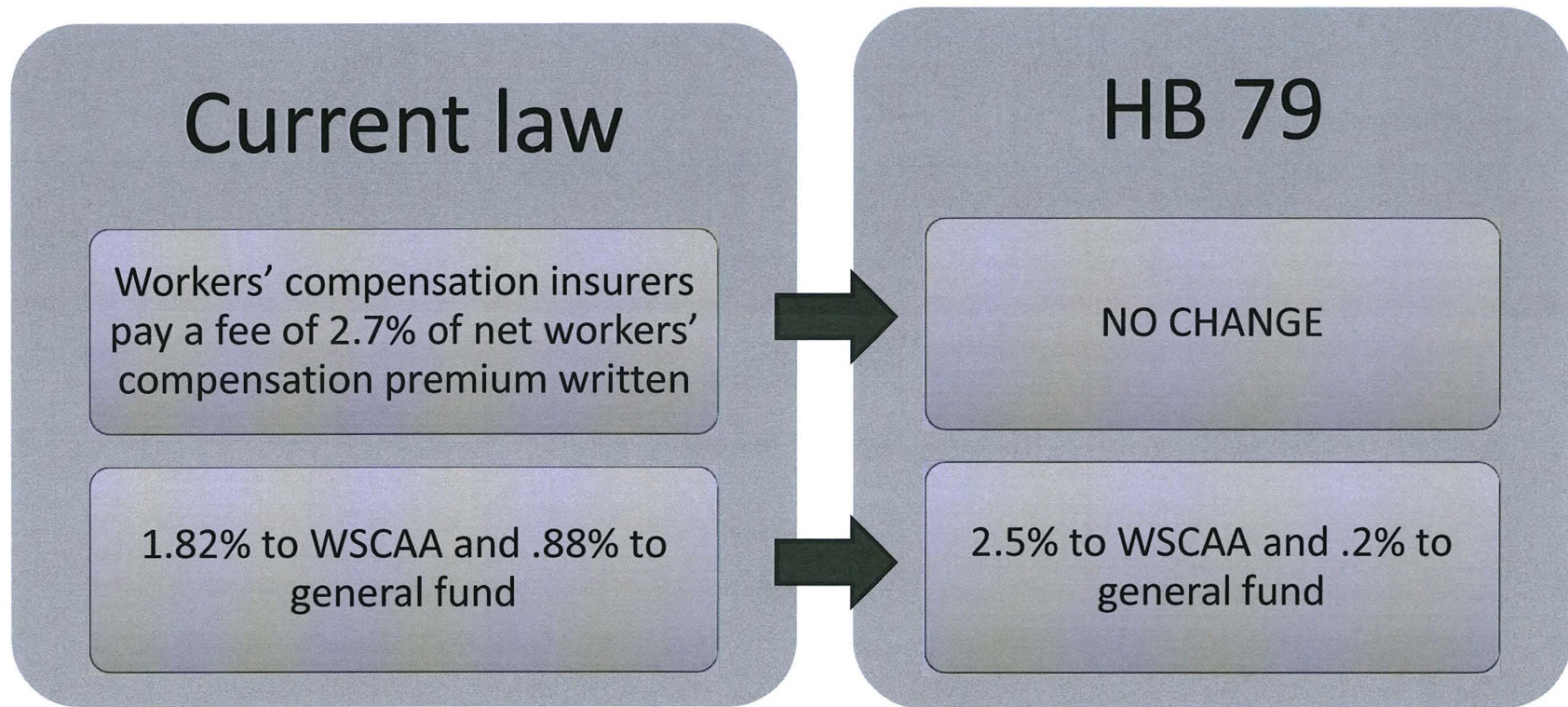
Workers' Compensation

REDUCE ADMINISTRATIVE COSTS CONT.: SECS. 2-6, 13, 15, 19, 21, 24, 27, 29-30, 38, 40



Workers' Compensation

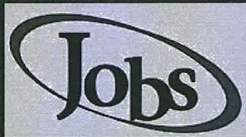
ENSURE ADEQUATE FUNDING: SEC. 1



**WE'RE PREPARING ALASKANS
FOR THE JOBS OF TODAY—AND
TOMORROW.**

**Alaska Department of Labor and
Workforce Development
Commissioner Heidi Drygas**

Email: Commissioner.Labor@alaska.gov
Phone: (907) 465-2700



ALASKA DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
COMMISSIONER HEIDI DRYGAS



Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version:	HB 79
Fiscal Note Number:	1
(H) Publish Date:	1/25/2017

Identifier: DOA-DRM-01-19-17
 Title: OMNIBUS WORKERS' COMPENSATION
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Administration
 Appropriation: Risk Management
 Allocation: Risk Management
 OMB Component Number: 71

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services	40.0		40.0	40.0	40.0	40.0	40.0	40.0
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	40.0	0.0	40.0	40.0	40.0	40.0	40.0	40.0

Fund Source (Operating Only)

1007 I/A Rcpts (Other)	40.0		40.0	40.0	40.0	40.0	40.0	40.0
Total	40.0	0.0	40.0	40.0	40.0	40.0	40.0	40.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Scott Jordan, Director
 Division: Risk Management
 Approved By: Sheldon Fisher, Commissioner
 Agency: Administration

Phone: (907)465-5723
 Date: 01/19/2017 11:05 AM
 Date: 01/19/17

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

Analysis

This bill will clarify, amend, add, repeal and change quite a few statutes within workers' compensation. There are several reporting changes to the Alaska Workers Compensation Board's various forms from a manual process to an Electronic Data Input (EDI) process. The EDI form submittals are through a third party vendor. The cost to submit each form can range from \$3.50 - \$6.00 per form. Risk Management (RM) receives about 1,500 Report of Injury (ROI) forms a year, approximately 1,200 of those forms turn into compensable claims. Each claim can generate approximately 6 forms per claim, with some generating many more. Our Third Party Administrator (TPA) who handles the adjusting for the workers' compensation claim, has estimated a cost of approximately \$40,000 per year to submit the current claim count through the EDI process.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 79
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB079CS(L&C)-DOLWD-WC-03-28-17
Title: OMNIBUS WORKERS' COMPENSATION
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: House Judiciary

Department: Department of Labor and Workforce Development
Appropriation: Workers' Compensation
Allocation: Workers' Compensation
OMB Component Number: 344

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services			(59.3)	(59.3)	(59.3)	(59.3)	(59.3)	(59.3)
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	(59.3)	(59.3)	(59.3)	(59.3)	(59.3)	(59.3)

Fund Source (Operating Only)

1157 Wrks Safe (DGF)			(59.3)	(59.3)	(59.3)	(59.3)	(59.3)	(59.3)
Total	0.0	0.0	(59.3)	(59.3)	(59.3)	(59.3)	(59.3)	(59.3)

Positions

Full-time			(1.0)	(1.0)	(1.0)	(1.0)	(1.0)	(1.0)
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/18

Why this fiscal note differs from previous version:

Updated to reflect the need for regulation changes.

Prepared By:	Marie Marx, Director	Phone:	(907)465-6060
Division:	Workers' Compensation	Date:	03/28/2017 12:30 PM
Approved By:	Heidi Drygas, Commissioner	Date:	03/28/17
Agency:	Department of Labor and Workforce Development		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. CSHB 79

Analysis

This legislation makes a number of changes to the Workers' Compensation Act. One of these changes mandates electronic filing of documents. Once all employers have converted to electronic filing, which is anticipated to occur by FY2019, the department will be able to eliminate one position that currently supports paper filings.

Additionally, this legislation would increase the percent of fees deposited into the Workers' Compensation Administration Account (WSCAA) fund. Under current statute, AS 21.09.210, the Division of Insurance collects a 2.7% tax from insurers on their annual Workers' Compensation premiums. Of this, 1.82% is deposited into the WSCAA fund and the remaining .88% is deposited into the general fund.

This legislation would increase the tax deposited into WSCAA to 2.50% and decrease the tax deposited into the UGF to .20%. Based on FY2016 collected tax revenue, the .68% tax distribution change from GF to WSCAA equates to \$1,890.9 annually.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version:	HB 79
Fiscal Note Number:	3
(H) Publish Date:	1/25/2017

Identifier: DOLWD-SIF-12-23-16
 Title: OMNIBUS WORKERS' COMPENSATION
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Labor and Workforce Development
 Appropriation: Workers' Compensation
 Allocation: Second Injury Fund
 OMB Component Number: 2342

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits			(400.0)	(800.0)	(1,200.0)	(1,600.0)	(2,000.0)
Miscellaneous							
Total Operating	0.0	0.0	(400.0)	(800.0)	(1,200.0)	(1,600.0)	(2,000.0)

Fund Source (Operating Only)

1031 Sec Injury (DGF)			(400.0)	(800.0)	(1,200.0)	(1,600.0)	(2,000.0)
Total	0.0	0.0	(400.0)	(800.0)	(1,200.0)	(1,600.0)	(2,000.0)

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

1031 Sec Injury (DGF)			(400.0)	(800.0)	(1,200.0)	(1,600.0)	(2,000.0)
Total	0.0	0.0	(400.0)	(800.0)	(1,200.0)	(1,600.0)	(2,000.0)

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By:	Marie Marx, Director	Phone:	(907)465-6060
Division:	Workers' Compensation	Date:	12/23/2016 02:30 PM
Approved By:	Heidi Drygas, Commissioner	Date:	12/23/16
Agency:	Department of Labor and Workforce Development		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

Analysis

This legislation will sunset the Second Injury Fund (Fund). Future claim payments will only be made on those claims accepted by July 1, 2018. The Fund's liability will contract over time and assessment rates will gradually be reduced until claim liability is exhausted. However, there will be no reduction of the staffing required to process these claim payments in the near future because it could take decades for the Fund to pay its ongoing claim obligation.

95% of claims are categorized as permanent total disability (PTD) benefits. PTD benefits are paid until disability ends or until death. The reduced Fund liability reflected in this fiscal note assumes the average age of the claimant at closure would be about 80 years old and 2 to 3 cases would be closed per year due to the death of the claimant.