

HB

38

<TARGET><BILL>HB 38</BILL><SUBJECT>HB
38</SUBJECT><COMM>HL&C30</COMM></TARGET>

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 18, 2017

FURTHER REFERRALS: Finance

Date of Committee Action: 10 Apr 2017

The LABOR AND COMMERCE Committee considered:

HB 38

HOUSE BILL NO. 38

"An Act relating to the calculation and payment of workers' compensation benefits in the case of permanent partial impairment; relating to the calculation and payment of workers' compensation death benefits payable to a child of an employee where there is no surviving spouse; relating to the calculation and payment of workers' compensation death benefits for an employee without a surviving spouse or child; relating to notice of workers' compensation death benefits; and providing for an effective date."

HB 38 WORKERS' COMPENSATION: DEATH BENEFITS

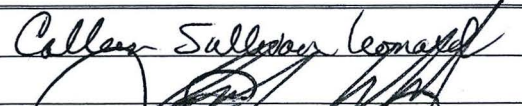

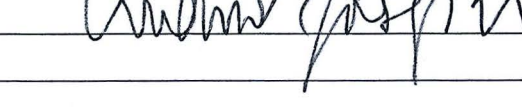
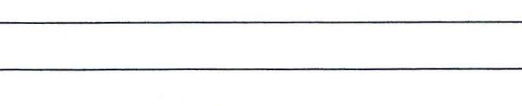

Recommends it be replaced with HCS or CS for HB 38 (LTC)
For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

- List of Abbrev for Depts.:
- ADM
 - AJS
 - CED
 - COR
 - EED
 - DEC
 - DFG
 - GOV
 - DHS
 - LWF
 - LAW
 - LEG
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

NEW FISCAL NOTES				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
1	LWF			✓
2	ADM	✓		

PREVIOUS FISCAL NOTES				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	SULLIVAN LEONARD		X		
	WOOL			✓	
	BIRCH		X		
	Joseph		X		
Chair: 	KITO	✓			
Chair:					

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sectional Analysis CSHB 38 ver J

Section 1: Provides that the Act may be known as the Abigail Caudle Act.

Section 2: Increases the base amount in AS 23.30.190(a) for calculating the compensation for the permanent partial impairment from \$177,000 to \$255,506.

Section 3: Amends AS 23.30 to add a new section, AS 23.30.212, requiring that in the event that an injury causes death, the employer is to notify the employee's personal representative of the compensation available, the statute of limitation, and where to obtain a list of legal counsel and grief counselors who may be able to assist.

Section 4: Amends AS 23.30.215(a)(4) to increase the maximum aggregate amount of death benefits payable to a father, mother, grandchild, brother, or sister dependent of the deceased at the time of injury from \$20,000 to \$100,000. Amends AS 23.30.215(a) to add a new paragraph providing that in the event there is no widow or widower or child or children, and the father, mother, grandchildren, brothers, or sisters were not dependent on the deceased at the time of injury, that the amount of death benefits available is \$70,000, and is payable in a lump sum to the estate of the decedent.

Section 5: Amends AS 23.30.215 to add two new subsections:

AS 23.30.215(j) provides that the director shall annually increase the amount of benefits payable under AS 23.30.215(a).

AS 23.30.215(k) provides that death benefit payable to a child under AS 23.30.215(a)(2)(D) or (E) shall terminate five years after the person is no longer considered a child under AS 23.30.395(8).

Section 6: Provides for a January 1, 2018 effective date.

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Side-by-Side CSHB 38 ver J

Current Statute	HB 38
If an employee suffers permanent physical loss because of a work injury, (s)he is owed \$177,000 x (% of disability as defined by the American Medical Association Guides)	If an employee suffers permanent physical loss because of a work injury, (s)he is owed \$255,506 x (% of disability as defined by the American Medical Association Guides)
If an employee dies on the job, the widow(er) and dependent children are owed \$15,000 + up to 100% of the allowable weekly compensation rate.	If an employee dies on the job, the widow(er) and dependent children are owed \$15,000 + up to 100% of the allowable weekly compensation rate.
If the employee dies on the job, there are no widow(er) or children dependents, but there are other dependent family, they split up to \$20,000 + funeral expenses .	If the employee dies on the job, there are no widow(er) or children dependents, but there are other dependent family, they split up to \$100,000 + funeral expenses .
If the employee dies on the job, then the estate can <u>neither collect worker(s) compensation nor sue.</u>	If the employee dies on the job, there are no widow(er) or dependents, then the estate can collect a lump sum of \$70,000 + funeral expenses .

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Explanation of Changes

House Bill 38: Version A to Version J

Section 2

Page 1, line 13

In 2015 a report commissioned by Rep. Andy Josephson to the Office of Legislative Research indicated that the partial impairment ratings payout of \$177,000 in 2000 would be adjusted for inflation to the value of \$255,854 at the end of 2014. Legislative Research has determined that this number, provided two years ago, was in error. It has also determined that the \$177,000 in 2000 would be adjusted to the value of \$255,506 in 2016.

This CS adjusts the payout down from \$255,854 to \$255,506 to reflect what the payout adjusted for inflation would be at the end of 2016.

Section 4

Page 3, line 16

In version A, the payout to the family of the decedent when the family included dependent siblings, parents, or grandchildren, was tied to the value defined in AS 23.30.190(a) (partial impairment ratings payout). In version J, the payout is no-longer tied to AS 23.30.190(a), and is assigned a hard value of \$100,000.

Section 4

Page 3, line 21

In version A the payout to the family of the decedent when it did not include a dependent was 50% of the value defined in AS 23.30.190(a) (partial impairment ratings payout). In version J the payout is assigned a hard value of \$70,000. This value is \$5,000 less than the minimum \$75,000 payout required under Worker's Compensation statutes in the state of Louisiana according to the supporting document authored by Legislative Research entitled "Workers' Compensation Death Benefits Provided to Estates". Louisiana is the state with the highest payout for this benefit.

30-LS0160J
Wallace
3/23/17

CS FOR HOUSE BILL NO. 38()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE JOSEPHSON

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the payment of workers' compensation benefits in the case of**
2 **permanent partial impairment; relating to the payment of workers' compensation death**
3 **benefits payable to a child of an employee where there is no surviving spouse; relating to**
4 **the payment of workers' compensation death benefits for an employee without a**
5 **surviving spouse or child; relating to notice of workers' compensation death benefits;**
6 **and providing for an effective date."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 **SHORT TITLE.** This Act may be known as the Abigail Caudle Act.

11 * **Sec. 2.** AS 23.30.190(a) is amended to read:

12 (a) In case of impairment partial in character but permanent in quality, and not
13 resulting in permanent total disability, the compensation is \$255,506 [\$177,000]

1 multiplied by the employee's percentage of permanent impairment of the whole
 2 person. The percentage of permanent impairment of the whole person is the
 3 percentage of impairment to the particular body part, system, or function converted to
 4 the percentage of impairment to the whole person as provided under (b) of this section.
 5 The compensation is payable in a single lump sum, except as otherwise provided in
 6 AS 23.30.041, but the compensation may not be discounted for any present value
 7 considerations.

8 * **Sec. 3.** AS 23.30 is amended by adding a new section to read:

9 **Sec. 23.30.212. Notice of death benefits.** (a) If an injury causes death, on a
 10 form prescribed by the director, the employer shall notify the personal representative
 11 of the employee's estate of the compensation for death available under AS 23.30.215,
 12 the statute of limitations for obtaining workers' compensation benefits, and where to
 13 obtain a list of legal counsel and grief counselors who may be able to assist.

14 (b) If the identity of the personal representative of the employee's estate is not
 15 known by the employer, the employer shall notify one of the following:

- 16 (1) the employee's surviving spouse;
- 17 (2) the employee's mother or father;
- 18 (3) the employee's dependent;
- 19 (4) the employee's next of kin; or
- 20 (5) anyone otherwise entitled to recover death benefits under

21 AS 23.30.215.

22 (c) In this section, "personal representative" has the meaning given in
 23 AS 13.06.050.

24 * **Sec. 4.** AS 23.30.215(a) is amended to read:

25 (a) If the injury causes death, the compensation is known as a death benefit
 26 and is payable in the following amounts to or for the benefit of the following persons:

- 27 (1) reasonable and necessary funeral expenses not exceeding \$10,000;
- 28 (2) if there is a widow or widower or a child or children of the
 29 deceased, the following percentages of the spendable weekly wages of the deceased:

- 30 (A) 80 percent for the widow or widower with no children;
- 31 (B) 50 percent for the widow or widower with one child and 40

1 percent for the child;

2 (C) 30 percent for the widow or widower with two or more
3 children and 70 percent divided equally among the children;

4 (D) 100 percent for an only child when there is no widow or
5 widower;

6 (E) 100 percent, divided equally, if there are two or more
7 children and no widow or widower;

8 (3) if the widow or widower remarries, the widow or widower is
9 entitled to be paid in one sum an amount equal to the compensation to which the
10 widow or widower would otherwise be entitled in the two years commencing on the
11 date of remarriage as full and final settlement of all sums due the widow or widower;

12 (4) if there is no widow or widower or child or children, then for the
13 support of father, mother, grandchildren, brothers, and sisters, if dependent on
14 [UPON] the deceased at the time of injury, 42 percent of the spendable weekly wage
15 of the deceased to those [SUCH] beneficiaries, share and share alike, not to exceed
16 \$100,000 [\$20,000] in the aggregate;

17 (5) \$5,000 to a surviving widow or widower, or equally divided among
18 surviving children of the deceased if there is no widow or widower; and

19 (6) if there is no widow or widower or child or children, and the
20 father, mother, grandchildren, brothers, and sisters were not dependent on the
21 deceased at the time of injury, then \$70,000 is payable in a lump sum to the estate
22 of the decedent.

23 * **Sec. 5.** AS 23.30.215 is amended by adding new subsections to read:

24 (j) The director shall annually increase the amount payable under (a)(6) of this
25 section by a percentage equal to the percentage increase in the Consumer Price Index
26 for urban wage earners and clerical workers for Anchorage, Alaska, during the
27 previous calendar year, as determined by the United States Department of Labor,
28 Bureau of Labor Statistics.

29 (k) The death benefit payable to a person who is a child under (a)(2)(D) or (E)
30 of this section shall terminate five years after the person is no longer considered a
31 child under AS 23.30.395(8).

1

* **Sec. 6.** This Act takes effect January 1, 2018.

HB 38

Abigail Caudle Act

SPONSOR: REP JOSEPHSON

STAFF: PAUL KELLY

What problems are we solving?

1. Updating Partial Impairment Rating for inflation
 - ▶ Established in 1988 @ \$135,000
 - ▶ Adjusted once for inflation in 2000 (**17 years ago**) to \$177,000

1988 – AS 23.30.190(a) repealed and re-enacted
Partial impairment rating established at **\$135,000**

2017 ?

12 years

17 years

2000 – AS 23.30.190 updated
PPI adjusted for inflation to **\$177,000**

What problems are we solving?

2. The estate of a single worker with no dependents who dies on the job has no remedy

▶ Cannot sue



▶ Cannot collect worker's compensation



▶ There's no legal incentive for the employer to protect these employees

What is the current law?

PPI

- ▶ Under 23.30.190(a) the PPI rating is **\$177,000**
- ▶ The PPI rating is multiplied by the percentage of disability, or how much a worker's injury impacts the worker's ability to perform their job.

Deceased Workers

- ▶ Under 23.30.215(a)
- ▶ The widow / widower and/or children get **\$15,000** plus as much as 100% of the decedent's spendable weekly wages
 - ▶ If no widow / widower or children, but there are other dependent family, then they get **\$10,000** plus up to **\$20,000**
 - ▶ **No provision** for compensating the estate if no surviving widow(er) or dependents

How do we fix it?

- ▶ Under 23.30.190(a) the PPI rating is adjusted for inflation to \$255,506
- ▶ Under 23.30.215(a)
 - ▶ The widow / widower and/or children get \$15,000 plus as much as 100% of the decedent's spendable weekly wages
 - ▶ If no widow / widower or children, but there are other dependent family, then they get \$10,000 plus up to \$100,000
 - ▶ If no widow, widower, or dependents, the estate gets funeral expenses plus a \$70,000 lump sum

Questions?



ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

MEMORANDUM

Date: February 9, 2017
To: Representative Kito, Chair
House Labor and Commerce Committee
From: Representative Josephson *AJ*
Re: Hearing Request for House Bill 38

Representative Kito:

I respectfully request a hearing in the House Labor and Commerce Committee for House Bill 38, relating to workers' compensation benefits for workplace death or permanent impairment.

Attached is the requested sponsor statement, copy of the bill, and supporting materials. I would be happy to prepare any other necessary documents or provide additional information. The department will prepare a fiscal note when the bill is scheduled for a hearing. As this legislation will have statewide impact, I suggest that hearings be teleconferenced to all LIO's. I can provide a witness list prior to a hearing. Feel free to contact me anytime. Thank you for your consideration.

Best Regards,

Andy Josephson

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sponsor Statement

House Bill 38: Benefits for Workplace Death and Permanent Impairment

House Bill 38 addresses an injustice that came to light when Abigail Caudle, a twenty-six year-old electrical worker, was killed on the job in 2011. Because Ms. Caudle was unmarried and had no dependents, the workers' compensation system paid only for her funeral expenses. HB 38 directs that when a worker dies without a spouse or minor children, then either relatives who depended on that worker for support, or the worker's estate, will receive a respectful amount of compensation.

HB 38 also solves the problem of inadequate financial support of children after their single parent dies on the job. Currently, teenagers may receive only a few months of financial assistance before their support is cut off when they turn eighteen. The bill continues payment of the death benefit for five years after the child reaches legal adulthood.

Finally, HB 38 brings more equitable compensation to workers for permanent injuries, such as loss of an arm. One-time payments for permanent, partial disability have not increased since 2000, and their value has been eroded by inflation. The bill increases the payments to off-set past inflation, and provides an annual adjustment based on the Anchorage Consumer Price Index.

I invite you to discuss this issue with me further and urge you to support this legislation.

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sectional Analysis

Section 1: Provides that the Act may be known as the Abigail Caudle Act.

Section 2: Increases the base amount in AS 23.30.190(a) for calculating the compensation for the permanent partial impairment from \$177,000 to \$255,854.

Section 3: Amends AS 23.30 to add a new section, AS 23.30.212, requiring that in the event that an injury causes death, the employer is to notify the employee's personal representative of the compensation available, the statute of limitation, and where to obtain a list of legal counsel and grief counselors who may be able to assist.

Section 4: Amends AS 23.30.215(a)(4) to increase the maximum aggregate amount of death benefits payable to a father, mother, grandchild, brother, or sister dependent on the decease at the time of injury from \$20,000 to "the amount payable under AS 23.30.190(a) for permanent partial impairment, without any multiplier" or \$255,854. Amends AS 23.30.215(a) to add a new paragraph providing that in the event there is no widow or widower or child or children, and the father, mother, grandchildren, brothers, or sisters were not dependent on the deceased at the time of injury, that the amount of death benefits available is "fifty percent of the amount payable under AS 23.30.190(a) for permanent partial impairment, without any multiplier," or \$127,927, and is payable in a lump sum to the estate of the decedent.

Section 5: Amends AS 23.30.215 to add two new subsections:

AS 23.30.215(j) provides that the director shall annually increase the amount of benefits payable under AS 23.30.215(a).

AS 23.30.215(k) provides that death benefit payable to a child under AS 23.30.215(a)(2)(D) or (E) shall terminate five years after the person is no longer considered a child under AS 23.30.395(8).

Section 6: Provides for a January 1, 2018 effective date.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 38
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB038-DOLWD-WC-02-17-17
Title: WORKERS' COMPENSATION: DEATH BENEFITS
Sponsor: JOSEPHSON
Requester: House Labor & Commerce

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 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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:	02/16/2017 12:00 PM
Approved By:	Heidi Drygas, Commissioner	Date:	02/17/17
Agency:	Department of Labor and Workforce Development		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 38

Analysis

This legislation changes various Workers' Compensation benefit calculation, payment, and other requirements related to incidents that result in death or permanent partial impairment. This will not change the way the division administers workers compensation; therefore, there is no fiscal impact to the department anticipated.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 38
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB038-DOA-DRM-02-23-17
Title: WORKERS' COMPENSATION: DEATH BENEFITS
Sponsor: JOSEPHSON
Requester: House Labor & Commerce

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	Included in	Out-Year Cost Estimates					
	Appropriation Requested	Governor's FY2018 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018						
Personal Services								
Travel								
Services	273.0		546.1	546.1	546.1	546.1	546.1	546.1
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	273.0	0.0	546.1	546.1	546.1	546.1	546.1	546.1

Fund Source (Operating Only)

1007 I/A Rcpts (Other)	273.0		546.1	546.1	546.1	546.1	546.1
Total	273.0	0.0	546.1	546.1	546.1	546.1	546.1

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

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: <u>Sheri Gray, Risk Manager</u>	Phone: <u>(907)465-5724</u>
Division: <u>Risk Management</u>	Date: <u>02/23/2017 10:50 AM</u>
Approved By: <u>Sheldon Fisher, Commissioner</u>	Date: <u>02/23/17</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 38

Analysis

Risk Management (DRM) would be financially impacted by this proposed legislation.

DRM is funded by inter-agency receipts, based on a shared cost allocation plan. Any increases to DRM's operating costs would be passed on via cost allocation to our customer agencies who participate in the state's self-insurance program.

Under current provisions of the Alaska Worker's Compensation Act, AS 23.30.190 (a), the "whole body rating" is \$177,000. This bill would increase this rating by 44.55% to \$255,854. DRM's eighteen-year average of whole body Permanent Partial Impairment (PPI) rating payouts to injured employees is \$1,156,372 per year. The 44.55% would increase the average annual payout by \$515,164. Based on the \$515,164, we anticipate additional payout in second injury fund fees of \$30,910.

This bill adds a provision to increase the "whole body rating" annually based on the Consumer Price Index (CPI) for Anchorage. Based on the last five years of CPI data, we used an estimated 2% annual increase. However, no costs were added to the fiscal note for CPI. Trends in cost of living seem to be entering a deflationary period so the impact of CPI is unknown.

This bill amends AS 23.30.215 to add section (a)(6) to provide a PPI benefit in a death case where the deceased employee has no dependents, by providing a one-time lump sum payment equal to 50% of the whole body PPI of \$255,854, a total benefit of \$127,927 to the estate of the decedent. Currently, the death benefit to an employee with no dependents is limited to funeral expenses not to exceed \$10,000 under AS 23.30.215(a)(1). This bill would increase the death benefit in this circumstance from \$10,000 to \$127,927, or an increase of \$117,927. In the last five years, only one state employee suffered a work related death and had no dependents.

This bill amends AS 23.30.215 to provide an additional 5 years of benefits to minor child(ren), as defined in AS 23.3.395(8) who have no surviving parent. However, the bill does not provide for additional benefits for child(ren) with a surviving parent.

The potential cost increase for this bill as noted would impact the costs for workers' compensation as charged out to our customer agencies via the annual cost allocation method. Traditionally, Department of Transportation, Department of Corrections, and Department of Health & Social Services experience the highest workers' compensation costs. However, the Department of Public Safety unfortunately experiences the most on the job fatalities.

LEGISLATIVE RESEARCH SERVICES

30th Alaska Legislature
LRS Report 17.123
February 13, 2017



(907) 465-3991 phone
(907) 465-3908 fax
research@akleg.gov

Impact of Inflation on Statutory Compensation for Partial but Permanent Impairment under the Alaska Workers' Compensation Act

Susan Haymes, Manager

You asked for a calculation of the impact of inflation on the dollar amount (\$177,000) as defined in AS 23.30.190 since 2000, the year in which that amount was last adjusted.

The dollar figure in AS 23.30.190—\$177,000—is the amount under Alaska Workers' Compensation laws used to determine the compensation due to an employee who has suffered a partial but permanent impairment due to a workplace injury.

We used the Consumer Price Index (CPI) for Anchorage to determine the total amount of inflation that has occurred since 2000, the year in which the dollar figure in AS 23.30.190 was last adjusted. We then multiplied \$177,000 by that inflation amount. Those calculations are as follows:

Average Anchorage CPI ¹	
2000 Annual	150.90
2016 Annual	217.83

Inflation Calculation for AS 23.30.190	
\$177,000 * 1.4435	
(217.83/150.9)	\$255,506

As you may know, the CPI is the most widely cited measure of U.S. inflation. Compiled by the U.S. Bureau of Labor Statistics with the assistance of state agencies, the CPI tracks price changes for a "market basket" of various consumer goods and services. It is therefore best seen as a measure of changes in costs to consumers and, in recent years, has become viewed by many economists as a cost of living index. The CPI has many critics, however, who argue that the index can be misleading when applied to specific sectors of the economy. For instance, prices for items such as healthcare and energy costs often do not move in concert with changes in the overall CPI.²

It is therefore most appropriate to view the inflationary changes we calculate as the generally accepted difference in overall consumer buying power of the \$177,000 in question, rather than a change to the value of those dollars per se.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹ Anchorage CPI figures are from the Alaska Department of Labor and Workforce Development, Research and Analysis, <http://live.laborstats.alaska.gov/cpi/index.cfm>. The aggregate inflation rate is 44.35 percent [(217.83-150.9)/150.9*100].

² More information on the CPI is available at <https://www.bls.gov/cpi/>.

LEGISLATIVE RESEARCH SERVICES

30th Alaska Legislature
LRS Report 17.199
April 6, 2017



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Origin of the Benefit Amount for Permanent Partial Impairment in Workers' Compensation Claims

Susan Haymes, Manager

You asked about the origin of the previous maximum benefit amount of \$135,000, used as the basis for compensation of permanent partial impairments in workers' compensation claims.

In 1988, Alaska lawmakers, as part of a comprehensive revision of Alaska's workers' compensation laws, established \$135,000 as the maximum compensation allowed for a permanent partial impairment (ch 79 SLA 1988). The changes to AS 23.30.190(a) made in 1988, not only increased the maximum compensation available to \$135,000, but also adopted the current method used to determine compensation, which ties the worker's percentage of permanent impairment of the whole person to criteria published in the *American Medical Association Guides to the Evaluation of Permanent Impairment*.¹

The vehicle for the rewrite of workers' compensation law in 1988, became SB 322, which originally proposed to amend AS 23.30.190(a) to establish the maximum compensation at \$240,000, to be "multiplied by the employee's percentage of net permanent impairment of the whole person." To determine the net permanent impairment, the bill included a table setting out actual degrees of impairment with corresponding adjustment factors.² The intent of this provision was to redistribute benefits so that workers with more serious injuries would receive awards commensurate with their injuries, while those with minor injuries would receive proportionately less compensation.³ The Senate passed SB 322 with \$240,000 as the maximum compensation, however, an actuarial firm hired by the Alaska Division of Insurance to analyze SB 322 had expressed concern that the new law may actually increase major permanent partial costs. The analysis found that specifically, "the new higher maximum on permanent partial benefits and the proposal for benefits to become payable in a lump sum appear to make these benefits more attractive to claimants."⁴

In hearings before the House Judiciary Committee, David Gottstein, a member of the Labor Management Task Force that had been working on SB 322 testified as follows on the issue:

The goals outlined by the task force when crafting that section was to break even on the cost of permanent partial disability payments by shifting the payments somewhat from the least to the most injured workers, while not affecting the lower levels too negatively. They thought they had accomplished those goals, but discovered they went too far and it was out of balance. It became obvious that an adjustment would be required and they were trying to come to terms on a new

¹ In 1983, compensation had been set at 80 percent of the injured employee's spendable weekly wages. The number of weeks compensated and the maximum amount allowed was listed by the body part lost. For example, for a lost arm, an employee was entitled to 80 percent of 280 weeks of compensation, not to exceed \$59,000 (ch 70 SLA 1983).

² SB 322 as originally drafted was based on recommendations by the Management-Labor Workers' Compensation Task Force.

³ "Sectional Analysis of Workers' Compensation Task Force SB 322 and HB 352," located in Senate Labor and Commerce Committee Bill File #3, Legislative Reference Library.

⁴ Letter from Michael McMurray, Milliman and Robertson, to John George, Division of Insurance, January 29, 1988, and Milliman and Robertson, "Cost Analysis of the Alaska Workers' Compensation Program," House Judiciary Bill File for SB 322, 1987-1988, Legislative Reference Library.

formula. He noted that Milliman & Robertson has been retained to develop and cost out a new formula and hope to have the problems fixed within a few days.⁵

In a subsequent hearing in the House Judiciary Committee, Dick Cattanach, a member of the Management-Labor Task Force, recommended decreasing the maximum compensation from \$240,000 to \$135,000. Mr. Cattanach explained that the Task Force had worked with the actuaries and concluded that \$135,000 represented a “break-even” point for permanent partial impairment claims.⁶ In response, the House Judiciary Committee adopted a committee substitute, which among other things, set \$135,000 as the maximum compensation for a permanent partial impairment. This provision passed the House and was ultimately enacted by the Legislature as part of the free conference committee’s version of SB 322 in 1988.

Currently, under AS 23.30.190(a), the compensation for a permanent partial impairment claim is \$177,000 multiplied by the “employee’s percentage of permanent impairment of the whole person” as set out in the *American Medical Association Guides to the Evaluation of Permanent Impairment*.⁷

We hope this is helpful. If you have questions or need additional information, please let us know.

⁵ House Judiciary Committee Minutes, April 12, 1988, Infobases, <http://www.akleg.gov/basis/folio.asp>.

⁶ House Judiciary Committee Minutes, April 15, 1988, Infobases, <http://www.akleg.gov/basis/folio.asp>.

⁷ The \$177,000 amount was enacted in 2000 (ch105 SLA 2000).



LEGISLATIVE RESEARCH SERVICES

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Research Brief

TO: Representative Andy Josephson
FROM: Patricia Young, Manager
DATE: February 4, 2015
RE: Impact of Inflation on Statutory Compensation for Partial But Permanent Impairment under the Alaska Workers' Compensation Act
LRS Report 15.225

You asked for a calculation of the impact of inflation on the dollar amount (\$177,000) delineated in AS § 23.30.190 since 2000, the year in which that amount was last adjusted.

As you know, the dollar figure in AS § 23.30.190—\$177,000—is the amount under Alaska Workers' Compensation laws used to determine the compensation due to an employee who has suffered a partial but permanent impairment due to a workplace injury.

We used the Consumer Price Index (CPI) for Anchorage to determine the total amount of inflation that has occurred since 2000, the year in which the dollar figure in AS § 23.30.190 was last adjusted. We then multiplied \$177,000 by that inflation amount. Those calculations are as follows:

Average Anchorage CPI ¹	
First Half 2000	150.00
Second Half 2014	216.83
Difference	66.83
Aggregate Inflation	44.55% (63.91/150*100)
Inflation Calculation for AS § 23.30.190	
\$177,000 * 1.4455	\$255,854

As you may know, the CPI is the most widely cited measure of U.S. inflation. Compiled by the U.S. Bureau of Labor Statistics with the assistance of state agencies, the CPI tracks price changes for a "market basket" of various consumer goods and services. It is therefore best seen as a measure of changes in costs to consumers and, in recent years, has become viewed by many economists as a cost of living index. The CPI has many critics, however, who argue that the index can be misleading when applied to specific sectors of the economy. For instance, prices for items such as healthcare and energy costs often do not move in concert with changes in the overall CPI.²

It is therefore most appropriate to view the inflationary changes we calculate as the generally accepted difference in overall consumer buying power of the \$177,000 in question, rather than a change to the value of those dollars per se.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹ Anchorage CPI figures are from the Alaska Department of Labor and Workforce Development, Research and Analysis Section, <http://laborstats.alaska.gov/cpi/cpi.htm>.

² More information on the CPI is available at <http://www.bls.gov/cpi/>.

LEGISLATIVE RESEARCH SERVICES

30th Alaska Legislature
LRS Report 17.136
February 21, 2017



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Workers' Compensation Death Benefits Provided to Estates

Susan Haymes, Manager

You asked about workers' compensation death benefits payable to estates when no family member survives the deceased worker. Specifically, you wished to know if other states provide this benefit and the costs associated with death benefits to employees with no dependents.

Generally, death benefits are paid to dependents of a deceased worker to replace a portion of family income lost due to a workplace fatality. Some states provide monetary compensation to a worker's estate and/or nondependent parents or children when a worker dies with no eligible dependents. No state allows an employee to choose his or her own beneficiary to receive death benefits.¹

Death benefits are designed to provide monetary support for those people who will suffer most from a worker's death. Typically, these benefits are comprised of two components: funeral and burial expenses, and monetary benefits to dependent family members to compensate for lost income.² The majority of states, including Alaska, do not pay death benefits other than burial or medical expenses, unless the deceased worker has an eligible dependent. In Alaska, the insurer is required to pay up to \$10,000 for funeral expenses, and monetary compensation to the worker's dependents based on a percentage of his or her earnings, as well as a \$5,000 one-time death benefit. Dependents include the widow or widower; children; and if there is no widow, widower, or children, other family members such as parents and siblings if they were financially dependent upon the deceased at the time of death (AS 23.30.215). Additionally, if an employee with no dependents dies due to a workplace injury, the employer or insurer must pay \$10,000 to the Second Injury Fund (AS 23.30.040(c)).³

Nonetheless, some states do pay some, or all, of any remaining permanent disability benefits and/or death benefits to *nondependent* parents or children, or the worker's estate. One reason given for such provisions is that workers with no statutory dependents may still have remaining financial obligations when they die unexpectedly; therefore, some compensation to a deceased worker's nondependent parents or estate is reasonable.

In Table 1 we provide examples from 13 states that offer monetary compensation when a worker who has no eligible dependents dies from a work-related injury or illness. You will note that Alabama, Minnesota, and Tennessee provide a lump sum payment to the deceased workers' estate. In New York, if the deceased worker has no surviving parents, his or her estate receives a \$50,000 payment. Laws in Hawaii, South Carolina, Texas, and Wisconsin allow the deceased worker's nondependent children or parents to receive a portion of death benefits, and any remaining benefits are transferred to a state fund. Six states—Colorado, Hawaii, Idaho, New Mexico, New York, and Oregon—provide that if a worker with no statutory

¹ While death benefits may function as a form of life insurance, an employee covered by workers' compensation does not designate a beneficiary in the same way a person does when he or she obtains or purchases a life insurance policy.

² The majority of states provide some amount of reimbursement for burial costs to the person who paid the bill or directly to the funeral home. Some states pay a lump sum amount to help cover the expenses. In addition, many states require employers to pay any medical costs associated with a work-related death.

³ The Second Injury Fund provides reimbursements to employers for certain injured employees.

dependents dies before his or her permanent partial disability benefit is paid in full, the insurer must pay the full amount of the remaining award to the worker's estate.

Table 1: Payment of Death Benefits under Workers' Compensation Laws in Selected States When the Deceased Has No Statutory Dependents		
State	Citation	Summary of Benefits
Alabama	Code of Ala. § 25-5-60	Pays a lump sum of \$7,500 to the deceased worker's estate.
Colorado	C.R.S § 8-42-115	Pays remaining permanent disability benefits to the estate.
Hawaii	HRS §§ 386-34 and 386-41	Pays 25 percent of 312 times the effective maximum weekly death benefit rate to the nondependent parents. If there are no such parent(s), this amount is deposited in the special compensation fund.
Idaho	Idaho Code § 72-431	Pays remaining disability benefits to the personal representative.
Louisiana	La. R.S. § 23:1231	Pays a lump sum of \$75,000 to be divided among any surviving nondependent children; if there are no surviving nondependent children, each surviving parent receives \$75,000.
Minnesota	Minn. Stat. § 176.111(22)	Pays a lump sum of \$60,000 to the estate.
New Mexico	N.M. Stat. Ann. § 52-1-46	Pays remaining permanent disability benefits to the estate.
New York	NY CLS Work Comp § 16 and § 236	Pays \$50,000 to the parents or to the decedent's estate, if there are no surviving parents. Any remaining permanent disability benefits are paid to the worker's estate.
Oregon	ORS § 656.208	Any remaining permanent partial disability benefits are paid to the estate, as well as any unpaid balance from the burial and funeral account.
South Carolina	S.C. Code Ann. § 42-9-140	Benefits first go to any surviving nondependent children. If the deceased worker leaves no children, then benefits are paid to his or her parents. If the workers leaves no dependents, nondependent children, or parents, the personal representative for the estate will receive probate administration and burial expenses. The remaining amount of death benefits is deposited in the South Carolina Injury Fund.
Tennessee	Tenn. Code Ann. § 50-6-209	Pays a lump sum of \$20,000 to the estate.
Texas	Tex. Labor Code § 408.182	Up to 104 weeks of death benefits are paid to the deceased worker's parents; if his or her parents are no longer alive, the remaining benefits are deposited in the Subsequent Injury Fund.
Wisconsin	Wis. Stat. §§ 102.48 and 102.49(5)(b)	Pays a lump sum of \$6,500 to unestranged nondependent parents. Any remaining amount of death benefits is deposited into the Work Injury Supplemental Benefits Fund.
<p>Notes: This table provides examples of state laws offering some form of death benefits to workers with no statutory dependents and is not meant to be exhaustive of all such laws.</p> <p>Source: LexisNexis.</p>		

Costs of Implementing Death Benefits Paid to Estates

In 2009, Oregon enacted legislation (SB 110) that allowed any remaining permanent partial disability benefits, as well as any unpaid balance from the burial and funeral account, to be paid to the deceased worker's estate if he or she had no statutory dependents. In a report to the Oregon Legislature in 2009, the Workers' Compensation Management-Labor Advisory Committee estimated such a change in benefits would not "materially affect" workers' compensation premium rates, due to

the small number of compensable deaths each year.⁴ Karen Howard, Oregon Department of Consumer and Business Services, Workers' Compensation Division, confirmed that the extension of benefits to a deceased workers' estate has not impacted premium rates or led to any appreciable costs.⁵ She credited this to the small number of compensable fatalities each year and the even smaller subset of workers with no dependents (maybe one or two, annually).⁶ In 2015, Oregon's Workers' Compensation Division received notification of 27 compensable fatalities, which was lower than the 10-year average of 31.2 fatalities. In New Mexico, in 2015, benefits were paid in response to 12 fatalities, of which, benefits paid to a workers' estate comprised only a small number, if any, in that year.⁷ By comparison, 22 fatalities were reported to the Alaska Workers' Compensation Division in 2015.⁸

As discussed above, in Alaska, when an employee with no dependents dies due to a workplace injury, the employer or insurer must pay \$10,000 to the Second Injury Fund. We note that in the past the Alaska Workers' Compensation Division has suggested that if the \$10,000 that is currently deposited in the Second Injury were repealed, that money could be used by the employer to mitigate the cost of providing death benefits to a worker's estate, should Alaska enact such a law.

We hope this is helpful. If you have questions or need additional information, please let us know.

⁴ Oregon workers' Compensation Management-Labor Advisory Committee, "Death Benefit Study Report," January 2009, p. 5. The document can be accessed at <http://library.state.or.us/repository/2009/200903240944472/>.

⁵ Ms. Howard can be reached at 503-947-7364.

⁶ Ms. Howard notes that it is difficult to tease out the exact amount of benefits paid to estates, because data are compiled under death benefits and do not distinguish between a worker's dependents and a worker's estate.

⁷ *New Mexico Workers' Compensation Administration 2015 Annual Report*, http://www.workerscomp.state.nm.us/research/ar15/wca_annual2015.pdf.

⁸ Department of Labor and Workforce Development, *State of Alaska Division of Workers' Compensation 2015 Annual Report*, at <http://labor.alaska.gov/wc/forms/2015AR.pdf>.



ALASKA DISTRICT COUNCIL OF LABORERS

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Dennis Moen

Business Manager
Secretary-Treasurer
District Council

Business Manager
Public Employees Local 71

Joey Merrick

President
District Council

Business Manager
Laborers Local 341

Feb 1, 2017

The Honorable Rep. Andy Josephson
Alaska State House of Representatives
Juneau, Alaska
99801

Kevin Pomeroy

Vice President
District Council

Business Manager
Laborers Local 942

Re: HB 38 Worker Compensation Amendment on
Death Cases and PPI Injuries

Dear Representative Josephson;

All Alaskans should indeed thank you for the common decency that HB 38 protects for families of Alaskan workers killed on the job; and for Alaskan workers suffering permanent injuries.

Specifically, Section 4 corrects the embarrassing neglect of prior Legislatures for Death cases wherein the worker was single, yet had grandchildren, parents, or siblings dependent on them. For over 40 years- since 1968 – this Death benefit has languished at the insulting \$20K for the loss of human life. Sadly, a number of Alaska families have been subject to this insulting statute. For example, the families of Alaskans such as 1). Kerry Brookman killed while working for our AKRR by an avalanche, 2). Tyler Kahle a construction worker killed in Nome, and 3). Anchorage Laborer Samuel Damn killed by a truck – sadly received this outdated, substandard \$20k for the death on the job!

Secondly, section 2 also corrects an outdated statute that unfairly impacts Alaskans disabled from workplace accidents. Specifically, the Worker compensation amount for a Permanent Disability in A.S. 23.30.190 has not been adjusted since the year 2000- and thus has eroded by inflation! Your HB 38 Bill rightly corrects this inequity for injured Alaskans.

We appreciate your work for passage of this Legislation for Alaska families!

Sincerely;

Dennis Moen

Sincerely;

Joey Merrick

Sincerely;

Kevin Pomeroy



ALASKA DISTRICT COUNCIL OF LABORERS

Laborer's International Union of North America

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Kevin Pomeroy

Vice President
District Council

Business Manager
Laborers Local 942

February 24, 2017

Honorable L & C Committee Members
Alaska State House of Representatives
Juneau, Alaska 99801

Re: **HB 38 Worker Compensation Amendment on Death Cases and PPI Injuries**

Dear Honorable Representatives;

Your support for passage of HB 38 protects families of **Alaskan workers killed on the job**; and for **Alaskan workers suffering permanent injuries**.

Specifically, Section 4 corrects the embarrassing neglect of prior Legislatures for Death cases wherein the worker was single, yet had grandchildren, parents, or siblings. **For over 40 years- since 1968 – this Death benefit has languished at the insulting \$20K for the loss of human life.** Sadly, a number of Alaska families have been subject to this insulting statute. For example, the families of Alaskans such 1). **Kerry Brookman killed** while working for our AKRR by an avalanche, 2). **Tyler Kahle** a construction worker killed in Nome, and 3). Anchorage Laborer **Samuel Rey Damn killed** by a truck -- sadly received this outdated, substandard \$20k for the death on the job!

And even worse, after **Abigail Caudle was killed** on the job in Anchorage, the existing Worker Comp statute was used to provide the family **zero-no compensation whatsoever--** for their daughter's death. [See Alaska Work Comp Appeals Com'n, Decision No. 215 (2015). That Decision deferred responsibility to the Alaska Legislature to address this tragedy. See footnote 32.

Secondly, section 2 also corrects an outdated statute that **unfairly impacts Alaskans disabled from workplace accidents**. Specifically, the Worker compensation amount for a Permanent Disability in A.S. 23.30.190 has not been adjusted since the year 2000- and thus has eroded by inflation! Your HB 38 Bill rightly corrects this inequity for injured Alaskans.

We appreciate your work for passage of this Legislation for Alaska families!

Sincerely;



Kevin Dougherty
General Counsel

Attachments: Abigail Caudle Obituary/ADN article
Re: Kerry Brookman; "Avalanche Kills Railroad worker"
Letter of Mother Michelle Kahle/son Tyler killed in Nome
1968 Alaska Legislative Amendment
1915 Alaska Territorial Legislature

Date: August 25, 2016
Resolution: 01-2016
Submitted by: Alaska AFL-CIO

**TITLE: RESOLUTION CONCERNING ALASKA WORKER COMPENSATION
STATUTE IMPROVEMENTS**

WHEREAS, there are inequities in the Alaska Worker Compensation Act that adversely hurt Alaska workers and their families, and;

WHEREAS, Alaska Labor should work to protect injured workers from such inequities in our Alaska law,

THEREFORE, the Alaska AFL-CIO is committed to work for the following improvements in the Alaska Worker Compensation Act:

1. The definition of "Employer" in Section .005 (who are shielded from lawsuits from injured or killed workers) should honestly be limited to Employers only, and thus the legal loophole created in 2004 should be repealed;
2. The death benefit provided to surviving families of single workers in Section 215(a) 4, which has not been adjusted since 1968, should, at minimum, be adjusted for inflation to \$125,293.00 from the current \$20,000.00 and automatic adjustments thereafter;
3. The PPI whole person index amount for disabled workers should be adjusted for inflation to \$224,088.00 with automatic adjustments thereafter;
4. Prospective premium credits should be provided to all Employers who adopt effective Safety Programs which include regularly scheduled mandatory employee safety meetings;
5. Reinstate the 5th Edition of the AMA guidelines due to multiple problems with the 6th Edition;
6. Consider adopting the Oregon Return-to-Work Program to provide incentive to employers to rehire injured workers.

ACTIONS:

August 25th: Adopted by Legislative Committee.

August 26th: Motion to accept Resolution 1 by Tom Brice, Laborers Local 942

Seconded by Nadine Lefebvre, Juneau Central Labor Council

Adopted by Alaska AFL-CIO Convention by Unanimous Consent

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Abigail Elizabeth "Abby" Caudle Obituary



Abigail (Abby) Elizabeth Caudle passed away Monday night, June 20th, as a result of a tragic accident. She was born February 16, 1985 in Santa Rosa, California and moved to Anchorage in 1996 with her family. Abigail graduated from Anchorage Christian School (ACS) in 2003. Upon graduation, Abigail worked at ACS as a pre-school teacher, then she worked at Home Depot for five years in the electrical and garden department, and since September 2010, she was an electrician apprentice at Raven Electric, which she absolutely loved.

Abigail is survived by her father Nathan Caudle and wife Lee; mother Marianne Burke and husband Gene; brother Corban and wife Katrina; sister Christal and husband Roger; brother Jeffrey; aunt Betty Caudle (her best bud) and cousin Jared; uncles David, John, and Michael Ross and Larry Caudle; paternal grandmother Shirley Parker and husband Gene of Stagecoach, Nevada; maternal grandmother Dianne Gilmer of Santa Rosa, California, and maternal grandfather Ron Ross; step-siblings; Jack, Emma, John, Gideon, Uriah, and Luke; and many other loving family and friends.

She was preceded in death by her paternal grandfather Harold Caudle and wife Joan; and her maternal grandfather Gene Gilmer.

An active volunteer at ChangePoint Church, Abigail had a great love for children, animals, and helping others. In her free time, Abigail enjoyed knitting, beading, working with tools and gadgets, and being outdoors. Her beautiful smile brightened the lives of all she met. Her family and friends will greatly miss her beautiful spirit, enthusiasm for life and giving nature.

Visitation will be held at Alaskan Heritage Memorial Chapel, 440 East Klatt Road, on Wednesday June 29th from 6:00pm to 9:00pm. The funeral service will be held at ChangePoint Church, 6689 ChangePoint Drive, on Thursday June 30th. A second visitation will be from 3:00pm to 4:00pm and the service will begin at 4:00pm.

In lieu of flowers, the family is asking for donations to a memorial savings account set up to help defray expenses. Donations are accepted at any Wells Fargo branch to Account No. 2426436164.

If you have a memory of Abigail to share with the family, please leave a comment on her web page at www.legacy.com or on her Facebook wall at www.facebook.com.

Guest Book

"I too was with the family the night Abigail passed away. I..."
 - Iris Gersh

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Abigail Caudle's Guest Book has 18 entries and will expire in 1 day.

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Published in Alaska Dispatch News from June 26 to June 27, 2011

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Alaska News

Electrical apprentice dies after shock and fall at work site

✍ Author: Casey Grove ⌚ Updated: September 29, 2016 📅 Published June 21, 2011

An Anchorage electrical worker died after she was shocked late Monday while working in Midtown, police said.

Raven Electric employee Abigail Caudle, 26, was at a job site in the 4000 block of Credit Union Drive about 11:30 p.m. when the accident occurred, police spokesman Lt. Dave Parker said.

"She fell when she got shocked, about nine feet," Parker said.

Caudle was an apprentice electrician working with two journeymen on an electrical remodel, said Don Lederhos, president of Raven Electric.

Lederhos declined to comment in detail about what happened and said it's unclear exactly what killed Caudle.

"We really don't know, and basically, yes, there was an accident and at this time the accident is under investigation," he said.

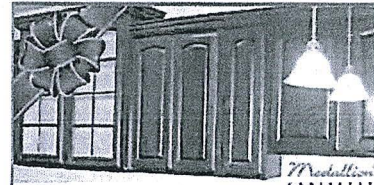
Caudle's mother, Marianne Burke, said her daughter had worked for Raven Electric between six months and a year. Caudle was also a volunteer at ChangePoint church, Burke said.

Reach Casey Grove at casey.grove@adn.com or 257-4589.

By CASEY GROVE

casey.grove@adn.com

About this Author Casey Grove

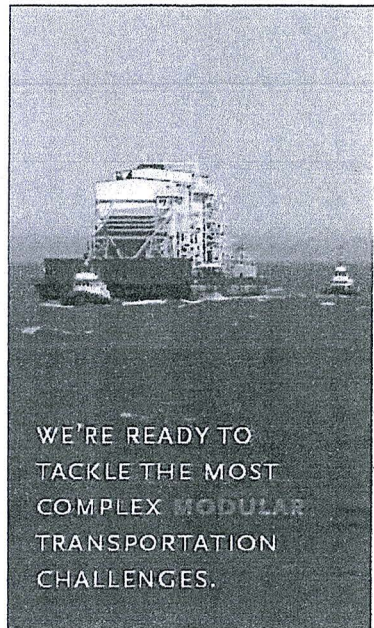


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Avalanche kills railroad worker

Highway remains closed after snowslides

Posted: Wednesday, February 02, 2000

By MAUREEN CLARK

THE ASSOCIATED PRESS

ANCHORAGE - State highway officials have temporarily abandoned their efforts to reopen the Seward Highway south of Anchorage after a Tuesday avalanche killed an Alaska Railroad worker.

• Photos



(http://)

Kerry Brookman, 53, of Palmer was trying to clean avalanche debris off the tracks with a bulldozer at about 12:30 p.m. Tuesday when a second avalanche swept him and his machine 500 feet onto the frozen surface of Turnagain Arm. Brookman was taken to Providence Alaska Medical Center suffering from a crushed pelvis and internal injuries. He died shortly after 5:30 p.m.

High winds gusting to 100 mph this morning made it impossible to send up aircraft to trigger controlled slides, said Chris Kepler, a maintenance chief with the Transportation Department. With the temperature rising into the 40s today, the avalanche danger remained high.

"The wind's blowing too hard, so we can't fly helicopters to do any bombing," Kepler said. "We are not going in there until we know absolutely that it's safe."

The Transportation Department was moving in large bulldozers and front-end loaders on the northern and southern ends of the highway to be ready to plow the road once avalanche control is completed.

"We just have the equipment on standby," Kepler said. "We're waiting for weather."



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FISHER INVESTMENTS*

My name is Michele Kahle. Because talking of my son's death is very difficult for me, I am requesting your boards permission to exceed your normal 5 minute limit by a few minutes if that is o.k.? We are seeking your support to try and correct some injustices with your current workmen's compensation system

After your long day-thank you for your time. Today is just another a bad day for my husband Tom and me. When we awake each day we just try to find the strength to make it through this day.

I wish I could be there in person today so you could look into my face, the face that others in our small town now try to avoid. Just seeing me is painful to others, ducking down a different isle at the grocery store to avoid me. I imagine it is the same reason that law makers don't return my emails or phone calls. Distraught mothers are down right hard to deal with, how do you pacify them.

There are 3 issues I would like you to consider on future meeting agenda's.

1. Increasing your state worker's compensation death benefit to an equitable level. Would you be satisfied with a \$5,000 death benefit if your child was killed at work due the negligence of others.
2. Abolishing the exclusive remedy provision of your work. Comp. statute in death cases involving negligence
3. Support of retroactive legislation to negate the 2004 amendment to the worker's compensation law that extended the exclusive remedy to the contractor and project owners. How can the work compensation statute exclusive remedy provision apply to entities that aren't even providing the worker's comp. insurance? What kind of system of justice allows these now exempt entities to sue the subcontractor-employer for their losses in relation to an employees death, but prohibits the victims from suing?

Tyler was our only child. He suffered through many physical adversities as a child and grew to be a very respectable and responsible young man. He was our life, not only cherished by our family but our whole community. In this small Wisconsin town of 3,500 people, over 1, 000 filed past his casket, many more turned away because we simply ran out of time.



LAWS OF ALASKA

1968

Source

SB 247

Chapter No.

12

AN ACT

Providing for the payment of compensation to dependent mother and father for death of wage earner.

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

* Section 1. AS 23.30.215(a)(4) is amended to read:

(4) If there be no surviving wife or dependent husband or child or children, then for the support of father, mother, grandchildren, brothers and sisters, if dependent upon the deceased at the time of injury, 35 per cent of the average weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed \$20,000 in the aggregate;

Approved by governor: February 22, 1968
Actual effective date: May 22, 1968

Audit Report

DEPARTMENT OF LABOR AND
WORKFORCE DEVELOPMENT
DIVISION OF WORKERS' COMPENSATION

October 31, 1999



Audit Control Number:

07-4601-00

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

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Legislative Auditor
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P.O. Box 113300
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(907) 561-1445, Anchorage
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Recommendation No. 2

DWC's director should propose legislative changes to improve balance in the workers' compensation laws.

As stated in the Report Conclusions section of this report, the 1988 comprehensive rewrite of the workers' compensation laws was intended to arrive at a balance between the injured workers' interests and the employers' rising insurance costs. Over the intervening period, the policy objective of lowering workers' compensation rates has been achieved. However, in achieving this goal, circumstances have developed that shift the balance between injured workers and employers to the disadvantage of the injured workers.

To reiterate our concerns regarding deficiencies, we identified the following areas where, in our view, the Workers' Compensation Act, as administered currently and in today's economy, works to the disadvantage of injured workers.

1. Fixed benefit amounts have not kept pace with the inflation and cost of living. Some examples of fixed benefit amounts that have not changed since the act came into law in 1989 include compensation for permanent partial impairment, death benefits, and rehabilitation plans. In the case of an impairment partial in character, but permanent in quality,³⁸ and not resulting in a permanent total disability, the compensation equals \$135,000 multiplied by the employee's percentage of permanent impairment of the whole person.

In the case of death, compensation known as a death benefit includes reasonable and necessary funeral expenses not exceeding \$2,500. Finally, the reemployment plan is paid on an expense incurred basis and may not exceed \$10,000. Based upon the consumer price index, the value of today's dollar has decreased 40% since 1988. Therefore, the value of the 1988 whole body compensation of \$135,000 would equal \$189,662 in today's dollars. Furthermore, with regard to reemployment plans, the average cost of tuition at the University of Alaska has increased by over 150% between 1988 and 1999.

2. Overtime and premium pay is excluded in the determination of spendable weekly wage. For employee's earnings that are calculated by the day, hour, or by the output of the employee, overtime and premium pay is excluded in the determination of spendable weekly wage.³⁹ As an example, an hourly employee injured while working on the North Slope is likely working an unusual work week, which would encompass overtime and shift differential pay. The compensation could include hazard pay as well. Any overtime or premium pay would not be included in the compensation calculation, yet may be an integral component of what the worker relies upon in each paycheck. The statute

³⁸ See AS 23.30.190.

³⁹ Alaska Statute 23.30.220(4)(A) states that "if at the time of injury, the employee's earnings are calculated by the day, hour, or by the output of the employee, the employee's gross weekly earnings are the employee's earnings most favorable to the employee computed by dividing by 13 the employee's earnings, not including overtime or premium pay, earned during the period of 13 consecutive calendar weeks within the 52 weeks immediately preceding the injury."

oners, and providing the necessary expenses of performing such duties, and in the prosecuting of all crimes denounced by Territorial laws the costs shall be paid the same as is now or may hereafter be provided by act of Congress providing for the prosecution of criminal offenses in said Territory, except that in prosecutions growing out of any revenue law passed by the Legislature the costs shall be paid as in civil actions and such prosecutions shall be in the name of the Territory."

DISPOSITION OF TERRITORIAL FUNDS.

The funds of the Territory have been deposited with various banks, and interest is being received upon them at the rate of two per cent. per annum, the funds being deposited as "open accounts." The banks of deposit have in all cases given bonds to the Territory for the safeguarding of the moneys in their hands.

TERRITORIAL MINING LAW.

The Territorial mining law (Chapter 74, Session Laws of 1913) has been and still is, a subject of much discussion for and against. It is urged by some that this law is confiscatory in some of its provisions and therefore should be repealed; others assert with equally strong convictions that the law is sound in principle and should be retained with some minor amendments. You come direct from the people and your course should be guided by what you believe will confer the greatest good upon the greatest number. Mining is the leading industry of the Territory and every legitimate encouragement should be afforded it. To handicap any industry by unjust or repressive restrictions is inimical to development, and upon the development of its resources will depend the growth and prosperity of the Territory and the consequent welfare of its people.

The report of the Territorial Inspector of Mines will be submitted to you, together with a number of recommendations, including amendments to the act relating to the inspection of mines in the Territory, and making the payment of wages to miners more secure and certain.

WORKMEN'S COMPENSATION.

What are known as workmen's compensation or employers' liability laws have been enacted by the Federal government and in many states, and are being favorably considered everywhere. Whether the time has come when this Territory should provide legislation for such compensation

for industrial accidents, as may be considered just to both labor and capital, employer and employe, is a matter worthy of consideration, in view of our limited industries and the cost of administration that such law would entail. Of its advantages there can be no doubt, however, for in this way alone can the unfortunate employe, and sometimes the equally unfortunate employer, be protected from those who speculate upon the misfortunes of others. The subject must be approached in a spirit of fairness, with broad views of the dignity and importance of the laborer, aside from the labor that he performs, and also with a true conception of the rights of capital in its relation to industrial affairs. Each to a great extent, under our system of government, is dependent upon the other, but we must never forget the human equation. Money is for the use and support of the man; not to rule him. It is merely a measure of value, and those who have much of it should never be permitted to use it in such a way as to control the man, or the government which is established by him for his use and advancement.

AN EIGHT-HOUR DAY.

A law passed by the First session of the Legislature provides for an eight-hour day in all hard-rock and coal mines. This law I believe has been generally observed and has proved generally satisfactory. Under its operations placer mines are excepted, but there would seem to be no legitimate reason why the eight-hour day should not be extended to all kinds of underground and other mining. Speaking by and large, experience has demonstrated that a man who works eight hours a day will do as much work as he who works ten hours, and he will probably do it better.

ELECTIONS.

The need of a modified form of the Australian ballot system is imperative in this Territory. Under the present method many kinds of ballots are now used and it is frequently impossible for the voter to cast an independent ballot and maintain his sovereign right of citizenship. A simple, practical law that will meet present requirements is recommended. A law for the registration of voters in Territorial elections in all incorporated towns would be a logical concomitant of an improved ballot law.

In this connection I may be permitted to point out that a corrupt practices act would tend to promote purity of elections. Fortunately Alaska has been comparatively free from corruption in elections, but it has not been unknown.

Respected Representatives of our great Alaska State
and members of the House Labor and Commerce committee,

I want to express my unequivocal support for HB 38, which was initiated because of my daughter's death- Abigail Caudle on June 20th, 2011, due to her being put in-avertedly on live wire as a new electrical apprentice.

OHSA cited the employer, Raven Electric, with 5 citations, 4 of which contributed to my daughter's death. Because of the Citations and the contents of the Safety Narrative report in the OSHA file, it is deemed a Gross Negligent accident, tho NOTHING has happened to the employer in regards to her accident because of the protection of Worker's Comp "no liability" and "exclusive remedy" clauses.

There was also NOTHING given for my precious daughter's life- in the prime of her life, but \$10,000 for FUNERAL COSTS to the funeral home. It was as if her and her life were worth Nothing, yet she left behind many, many family members, friends, church members, youth that she helped at church, and others who were devastated by her death.

I have therefore, been seeking justice for her life thru a Worker's Comp Claim, #201108827, The Appeal, #14-022 and now this last year, my case has been at the state Supreme Court, case #S-16137.

I will, as I'm sure you would, NOT STOP until justice is gained for my daughter's life, killed needlessly by a "no consequence/liability" work environment system due to Worker's Comp and current state laws.

There is, therefore, a poor safety environment over these years due to no liability and no larger sum payout for death in the work place, esp the single person who has no dependents- Nothing is paid for their lives.

The State laws of SB 323 and 303 passed in 2004 that took away my right to sue for gross negligence in Civil Court, which could have given me justice. As it is, I have only been able to go up thru the Worker's Comp system, but now, am at the Alaska Supreme Court. I hope to get justice there, but it's still a long shot because of current legislation.

I urge you, therefore, to look carefully at the problems that this Senate Bill addresses so that people like my daughter, are not killed needlessly and then their life is thrown aside with a no-compensate legal system!

I do NOT believe that our US Constitution would approve of these laws because there has been NO justice for Abigail and no due process for her life, tho the state system tries to make it look like there is justice and due process...There is NOT.

I welcome your feedback. If you have ANY questions, please feel free to call me during the day at 907-727-7043.

Thank you so very much,

Marianne E Burke.

HB 38 addresses these issues:

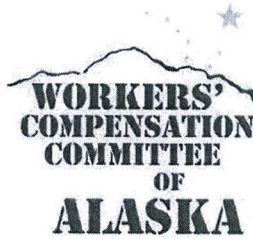
1. The Value of Life (death benefit) will be raised to the current economic dollar value of \$255,854, rather than the current year 2000's figure of \$177,000.
2. In cases of injury, the injured worker will get a larger piece of the pie (depending upon his impairment percentage) of \$255,854 rather than the current \$177,000.
3. There will be better notification to the family regarding benefits upon the death of their loved one.
4. **ANYONE killed in the workplace will be given Value (a death benefit) for their life to family members, as Abigail was, with no dependents.**

The attached Bill shows that amount to be 50% of \$255,85 or \$127,927 in their honor.

5. The death benefit amount is to be updated by the State yearly (so we don't end up 17 years behind in dollar value for those injured or killed in the workplace as we currently are).

May God's HAND be upon this BILL to change it for the people's benefit and in honor of our sweet Abigail.

Thank you so very, very much,
Marianne E Burke, mother of Abigail E Caudle



P.O. BOX 241911 | ANCHORAGE, ALASKA 99524 | E-MAIL: INFO@WCCAK.ORG

February 21, 2017

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

RE: House Bill 38

Dear Representative Kito:

The Workers' Compensation Committee of Alaska (WCCA) is an employer advocacy group dedicated to educating and advocating for Alaska employers on issues regarding workers' compensation. The WCCA has reviewed HB 38 and opposes it in its current form for the following reasons:

- HB 38 increases costs to employers without providing any reform to a system that is in dire need of reform.
- HB 38 would result in a 44% increase in permanent partial impairment benefits but provides for no substantive reforms that would offset the increase in benefits.
- HB 38 would expand payment of death benefits to non-dependent family members, essentially turning it into a life insurance policy.

The WCCA does not support any legislation that simply raises costs to its member employers. It is our position that substantive changes can be made to the current system that would reduce costs significantly, allowing for a redirection of costs that could provide some benefit increases to injured workers.

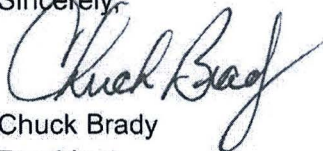
CHUCK BRADY, PRESIDENT; MISTY STEED, VICE PRESIDENT; JOAQUITA MARTIN, TREASURER;
TANYA HIGGINS-ATKINS, SECRETARY

WCCA
February 21, 2017
Page 2

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,

A handwritten signature in black ink that reads "Chuck Brady". The signature is written in a cursive style with a large, prominent "C" at the beginning.

Chuck Brady
President

NFIB

The Voice of Small Business.®

ALASKA

January 23, 2017

The Honorable Andy Josephson
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Bill 38

Dear Representative Josephson:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully share our opposition to House Bill 38. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

House Bill 38 would extend workers compensation payments beyond the injured worker and dependents. This changes the character of the program and increases its costs for purposes beyond compensating injured workers and dependents. Further, unlike state assistance programs, it adds a Consumer Price Index driven annual increase.

These changes add to the already high costs of the Alaska workers compensation program. For many years, Alaska's premiums to employers were the highest in the nation. Even with the minor reforms of the past few years, we remain the 5th highest at 145% of the median.

Small employers are committed to assisting injured employees through the workers compensation program, and in the event of a death, their dependents. However, the continuing increase in premiums is difficult for small businesses to fund and makes solvency more difficult.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

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