

SENATE BILL NO. 303

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 3/8/10

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a subcontractor's, contractor's, and project owner's liability for
2 workers' compensation, to sole proprietors and partnerships without employees, and to
3 managers or managing members of limited liability companies, and excluding certain
4 persons from liability for securing the payment of workers' compensation benefits to
5 employees; and providing for an effective date."

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

7 * **Section 1.** AS 23.30.045(a) is amended to read:

8 (a) An employer is liable for and shall secure the payment to employees of the
9 compensation payable under AS 23.30.041, 23.30.050, 23.30.095, 23.30.145, and
10 23.30.180 - 23.30.215. If the employer is a subcontractor [AND FAILS TO SECURE
11 THE PAYMENT OF COMPENSATION TO ITS EMPLOYEES], the contractor is
12 liable for and shall secure the payment of the compensation to employees of the
13 subcontractor unless the subcontractor secures the payment [. IF THE

1 EMPLOYER IS A CONTRACTOR AND FAILS TO SECURE THE PAYMENT OF
 2 COMPENSATION TO ITS EMPLOYEES OR THE EMPLOYEES OF A
 3 SUBCONTRACTOR, THE PROJECT OWNER IS LIABLE FOR AND SHALL
 4 SECURE THE PAYMENT OF THE COMPENSATION TO EMPLOYEES OF THE
 5 CONTRACTOR AND EMPLOYEES OF A SUBCONTRACTOR, AS
 6 APPLICABLE].

7 * **Sec. 2.** AS 23.30.045(f)(1) is amended to read:

8 (1) "contractor" means a person who undertakes by contract
 9 performance of certain work for another [BUT DOES NOT INCLUDE A VENDOR
 10 WHOSE PRIMARY BUSINESS IS THE SALE OR LEASING OF TOOLS,
 11 EQUIPMENT, OTHER GOODS, OR PROPERTY];

12 * **Sec. 3.** AS 23.30.055 is amended to read:

13 **Sec. 23.30.055. Exclusiveness of liability.** The liability of an employer
 14 prescribed in AS 23.30.045 is exclusive and in place of all other liability of the
 15 employer and any fellow employee to the employee, the employee's legal
 16 representative, husband or wife, parents, dependents, next of kin, and anyone
 17 otherwise entitled to recover damages from the employer or fellow employee at law or
 18 in admiralty on account of the injury or death. The liability of the employer is
 19 exclusive even if the employee's claim is barred under AS 23.30.022. However, if an
 20 employer fails to secure payment of compensation as required by this chapter, an
 21 injured employee or the employee's legal representative in case death results from the
 22 injury may elect to claim compensation under this chapter, or to maintain an action
 23 against the employer at law or in admiralty for damages on account of the injury or
 24 death. In that action, the defendant may not plead as a defense that the injury was
 25 caused by the negligence of a fellow servant, or that the employee assumed the risk of
 26 the employment, or that the injury was due to the contributory negligence of the
 27 employee. [IN THIS SECTION, "EMPLOYER" INCLUDES, IN ADDITION TO
 28 THE MEANING GIVEN IN AS 23.30.395, A PERSON WHO, UNDER
 29 AS 23.30.045(a), IS LIABLE FOR OR POTENTIALLY LIABLE FOR SECURING
 30 PAYMENT OF COMPENSATION.]

31 * **Sec. 4.** AS 23.30.045(f)(2) is repealed.

1 * **Sec. 5.** This Act takes effect January 1, 2011.