

**CS FOR SENATE BILL NO. 303(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 4/7/10**

**Referred: Rules**

**Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE**

**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 workers' compensation for independent contractors without**  
3 **employees, and excluding certain persons from liability for securing the payment of**  
4 **workers' compensation benefits to employees; and providing for an effective date."**

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

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

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

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

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

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

10 \* **Sec. 3.** AS 23.30.045 is amended by adding new subsections to read:

11 (g) A subcontractor who is hired by a contractor as an independent contractor  
 12 and who has no employees during the term of the contract is liable for and shall secure  
 13 the payment of compensation payable under AS 23.30.041, 23.30.050, 23.30.095,  
 14 23.30.145, and 23.30.180 - 23.30.215 that provides coverage for the subcontractor and  
 15 shall produce a certificate of workers' compensation insurance coverage for the  
 16 project.

17 (h) If a subcontractor fails to secure the payment required under (a) or (g) of  
 18 this section and the contractor becomes liable for an additional premium because of  
 19 the subcontractor's failure to secure payment, the subcontractor is liable to the  
 20 contractor for the amount of the additional premium and associated penalties.

21 \* **Sec. 4.** AS 23.30.055 is amended to read:

22 **Sec. 23.30.055. Exclusiveness of liability.** The liability of an employer  
 23 prescribed in AS 23.30.045 is exclusive and in place of all other liability of the  
 24 employer and any fellow employee to the employee, the employee's legal  
 25 representative, husband or wife, parents, dependents, next of kin, and anyone  
 26 otherwise entitled to recover damages from the employer or fellow employee at law or  
 27 in admiralty on account of the injury or death. The liability of the employer is  
 28 exclusive even if the employee's claim is barred under AS 23.30.022. However, if an  
 29 employer fails to secure payment of compensation as required by this chapter, an  
 30 injured employee or the employee's legal representative in case death results from the  
 31 injury may elect to claim compensation under this chapter, or to maintain an action

1           against the employer at law or in admiralty for damages on account of the injury or  
2           death. In that action, the defendant may not plead as a defense that the injury was  
3           caused by the negligence of a fellow servant, or that the employee assumed the risk of  
4           the employment, or that the injury was due to the contributory negligence of the  
5           employee. [IN THIS SECTION, "EMPLOYER" INCLUDES, IN ADDITION TO  
6           THE MEANING GIVEN IN AS 23.30.395, A PERSON WHO, UNDER  
7           AS 23.30.045(a), IS LIABLE FOR OR POTENTIALLY LIABLE FOR SECURING  
8           PAYMENT OF COMPENSATION.]

9           \* **Sec. 5.** AS 23.30.045(f)(2) is repealed.

10          \* **Sec. 6.** This Act takes effect January 1, 2011.