

CS FOR HOUSE BILL NO. 255(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/12/18

Referred: Finance

Sponsor(s): REPRESENTATIVE TUCK

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to individuals and employees who must have certificates of fitness to**
2 **perform certain plumbing and electrical work; and relating to civil penalties and**
3 **violations for not having required certificates of fitness."**

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

5 * **Section 1.** AS 18.62.010 is repealed and reenacted to read:

6 **Sec. 18.62.010. Certificate of fitness required.** (a) Except as provided by (c)
7 of this section, an individual may not perform work that is subject to the standards
8 established in AS 18.60.580 or 18.60.705 without having a certificate of fitness to
9 perform the work.

10 (b) Except as provided by (c) of this section, an employer may not use an
11 employee to perform work that is subject to the standards established in AS 18.60.580
12 or 18.60.705 unless the employee has a certificate of fitness to perform the work.

13 (c) An employee of an electric utility that does not have within its service area
14 a portion of a municipality that has a population of more than 2,500 is not required to

1 have a certificate of fitness to perform work for the electric utility that is subject to the
2 standards established in AS 18.60.580 or 18.60.705.

3 * **Sec. 2.** AS 18.62.070 is amended to read:

4 **Sec. 18.62.070. Individuals [PERSONS] required to obtain certificate.**
5 **Before engaging** [A PERSON ENGAGED] in one of the following **activities, an**
6 **individual** [TRADES] shall [FIRST] obtain from the department the appropriate
7 certificate of fitness in that **activity** [TRADE]:

8 (1) electrical wiring subject to the standards established in
9 AS 18.60.580; and

10 (2) plumbing subject to the uniform plumbing code; in this paragraph,
11 "uniform plumbing code" means the minimum plumbing code adopted for the state
12 under AS 18.60.705.

13 * **Sec. 3.** AS 18.62.080 is amended to read:

14 **Sec. 18.62.080. Penalty.** A person, **other than** [EITHER] an [EMPLOYER
15 OR] employee, who violates a provision of this chapter or of a regulation adopted
16 under this chapter is guilty of a **violation** [MISDEMEANOR] and **shall be punished**
17 **as provided by AS 12.55** [, UPON CONVICTION, IS PUNISHABLE] by a fine of
18 not more than \$500.

19 * **Sec. 4.** AS 18.62 is amended by adding new sections to read:

20 **Sec. 18.62.090. Issuance of citations.** If the department has probable cause to
21 believe that a person has violated a provision of this chapter or a regulation adopted
22 under AS 18.62.060, the department may issue the person a citation. Each day a
23 violation continues after the department issues a citation constitutes a separate
24 violation.

25 **Sec. 18.62.100. Citation procedure.** (a) A citation issued under AS 18.62.090
26 must comply with AS 12.25.175 - 12.25.230. A person who receives a citation under
27 AS 18.62.090 is not required to sign a notice to appear in court.

28 (b) The time specified in the notice to appear in court on a citation issued
29 under AS 18.62.090 must be at least five working days after the department issues the
30 citation.

31 (c) The department is responsible for the issuance of books containing

1 appropriate citations and shall maintain a record of each book issued and each citation
 2 contained in the book. The department shall require and retain a receipt for every book
 3 issued to an employee of the department.

4 (d) The department shall deposit the original or a copy of the citation with a
 5 court having jurisdiction over the alleged offense. When deposited with the court, the
 6 citation may be disposed of only by trial in the court or other official action taken by
 7 the magistrate, judge, or prosecutor. The department may not dispose of the citation or
 8 copies of it or of the record of its issuance except as required under this subsection and
 9 (e) of this section.

10 (e) The department shall require the return of a copy of every citation issued
 11 by the department under AS 18.62.090 and of all copies of every citation that have
 12 been spoiled or on which an entry has been made and not issued to an alleged violator.
 13 The department shall maintain, in connection with every citation issued by the
 14 department, a record of the disposition of the charge by the court where the citation
 15 was deposited.

16 (f) A citation issued under this chapter is considered to be a lawful complaint
 17 for the purpose of prosecution.

18 **Sec. 18.62.110. Civil penalty.** (a) In addition to receiving a citation under
 19 AS 18.62.090, if

20 (1) an individual violates AS 18.62.010(a), the individual is subject to
 21 a civil penalty of not more than \$125 for the first violation and not more than \$250 for
 22 a second or subsequent violation;

23 (2) an employer violates AS 18.62.010(b), the employer is subject to a
 24 civil penalty of not more than \$250 for the first violation and not more than \$500 for a
 25 second or subsequent violation.

26 (b) The department shall issue a written notice of a civil penalty imposed
 27 under (a) of this section. The notice must be accompanied by a statement of the
 28 reasons for the civil penalty and information regarding the opportunity to contest the
 29 civil penalty, including the opportunity to request a hearing, the contact information
 30 for making the request, and the date by which the request is to be made.

31 (c) If a person who is issued a notice of a civil penalty under (b) of this section

1 fails to request a hearing within 30 days after the date on which the person receives the
2 notice, the person waives the right to a hearing, and the person may not obtain judicial
3 review of the civil penalty. A request for a hearing must be in writing and clearly state
4 the issues to be raised at the hearing. The department shall schedule a hearing before a
5 hearing officer not earlier than 10 days after receiving the request for a hearing.

6 (d) A decision of a hearing officer under (c) of this section is a final
7 administrative decision subject to review by a superior court under AS 44.62.305
8 (Administrative Procedure Act).

9 **Sec. 18.62.190. Definitions.** In this chapter,

10 (1) "certificate" or "certificate of fitness" means a certificate of fitness
11 required by AS 18.62.070;

12 (2) "department" means the Department of Labor and Workforce
13 Development.