

INDEPENDENT CONTRACTORS

Effective November 22, 2018, the Alaska Workers' Compensation Act was amended to include a statutory definition of Independent Contractor. In order to be considered an independent contractor under AS 23.30.230(a)(12) for purposes of workers' compensation liability, a person must **collectively** meet **all** the following criteria:

- ◆ Has an express contract to perform services;
- ◆ Is free from direction and control over the means and manner of providing services;
- ◆ Incurs most of the expenses for tools, labor, and other operating costs;
- ◆ Has an opportunity for profit and loss from the services performed;
- ◆ Is free to hire and fire employees to help perform the contracted services;
- ◆ Has all business, trade, or professional licenses required by federal, state, or municipal authorities of an individual or business engaging in the same type of services;
- ◆ Follows IRS requirements by obtaining an employer identification number and filing business income appropriately;

AND must also meet TWO of the following criteria:

- ◆ Is responsible and subject to liability for completing the work, or maintains liability or other insurance policies necessary to protect the employees, financial interests, and customers of the business;
- ◆ Maintains a separate business location or business mailing address from the individual or entity for which the services are performed;
- ◆ Provides contracted services for two or more different customers within a 12-month period, or engages in business advertising, solicitation, or other marketing efforts to obtain new contracts.

It is important to note Alaska Workers' Compensation Act requirements are independent from those of the Internal Revenue Service or any other federal, state, or local regulatory agency. It is possible for the same workers to be considered independent contractors under one or more laws, but employees under other laws. There are significant financial risks to incorrectly classifying an employee as an independent contractor. It is in the employer's best interest to request guidance.



State of Alaska Workers' Compensation Division SPECIAL INVESTIGATIONS UNIT

Anchorage
3301 Eagle Street, Suite 301
Anchorage, AK 99503

Juneau
1111 West 8th Street, Room 305
Juneau, AK 99811

Fairbanks
675 7th Avenue, Station K
Fairbanks, AK 99701

For All Telephone Inquiries:
(907) 269-4002

WORKERS' COMPENSATION FRAUD IS A CRIME THAT HURTS EVERYONE

**The Fraud Hotline is open Monday
through Friday, 8:00 am to 5:00 pm.**

1-888-372-8330
wcfraud@alaska.gov

For comprehensive workers' compensation resources, please visit the division's website at:
<http://labor.alaska.gov/wc>



State of Alaska Workers' Compensation Division



What Employers Must Know About Workers' Compensation Insurance In Alaska



What is Workers' Compensation?

- ◆ Workers' Compensation is a no-fault insurance system that protects workers and employers from some of the losses caused by on-the-job injuries and illnesses.

Who needs insurance?

- ◆ Any person employing one or more persons in connection with a business or industry operating and utilizing employee labor in Alaska.

Are business owners excluded?

- ◆ Sole proprietors and partners are excluded from having to insure themselves, but still must insure their employees.
- ◆ Effective 8/1/2019, LLC members and officers/directors of corporations with less than 10% ownership interest are considered employees that must be insured for workers' compensation liability.

How do I obtain workers' compensation?

- ◆ Alaska does not have any reciprocity agreements with any other country or state, and does not have a state fund. All foreign and domestic employers must obtain insurance through a private commercial insurance carrier authorized by the Alaska Division of Insurance to write workers' compensation coverage in Alaska.

Can I charge my employees for the insurance?

- ◆ No. It is a crime in Alaska for an employer to charge employees for workers' compensation insurance premiums. In addition, employees cannot "waive" their right to workers' compensation benefits.



Duty of the Employer:

- ◆ Employers must report to the division any work-related injury, death, disease, or infection alleged by an employee or on behalf of an employee, within 10 days from the date the employer has knowledge.

Duty of the Injured Worker:

- ◆ Injured workers should immediately notify their employer of a work-related injury, and no later than within 30 days of the date of injury or death notify the employer and file a report of injury with the Alaska Workers' Compensation Division if the employer fails or refuses to do so.

**DON'T RISK IT!
ACCIDENTS WILL HAPPEN.
Call Your Agent and
Get a Policy Now!**



Uninsured Employers Beware!

The Alaska Workers' Compensation Board routinely assesses civil penalties against employers that fail or refuse to maintain workers' compensation insurance for their employees. Penalties for being uninsured could include one or more of the following:

- ◆ Penalties of up to \$1,000 per employee, for each day the employer failed to insure;
- ◆ Issuance and service of a stop-work orders;
- ◆ \$1,000 additional mandatory penalties for each day stop work orders are violated;
- ◆ Debarment from public contract awards;
- ◆ Personal liability for payment of compensable benefits and treatment costs for uninsured work-related injuries;
- ◆ Shared liability between project owners and uninsured contractors or subcontractors for work-related uninsured injuries ;
- ◆ Criminal charges, with possible fine of \$10,000 and imprisonment for up to a year for all persons who had authority to insure the business.

Reporting Fraud

Suspected workers' compensation fraud can be reported anonymously by calling the Alaska Workers' Compensation Fraud Hotline at 1-888-372-8330, or via email at wcfraud@alaska.gov



Fraud Examples Include:

- ◆ Employers: Failing to report payroll or underreporting payroll to the workers' compensation carrier to avoid premiums; misclassifying employees as independent contractors or as false owners in the business; deducting workers' compensation premiums from employee pay; or forcing employees to "waive" the rights to benefits.
- ◆ Health Care Providers: Submitting falsified billings for services or treatments never performed; performing unnecessary services.
- ◆ Insurance Claims Administrators: Knowingly making a false or misleading submission designed to affect payment of treatment costs or benefits or to influence a care provider's opinion.
- ◆ Attorneys: Knowingly misrepresenting the truth in order to secure or deny compensation for their clients and/or themselves; soliciting a person to file a false claim.
- ◆ Injured Workers/Claimants: Knowingly making a false or misleading submission affecting the payment, coverage, or other benefit under the Alaska Workers' Compensation Act; for example, claiming a job-related injury that never occurred; lying about working while receiving benefits; falsifying injury-related expense reports; seeking pain medication for the purpose of selling it for profit rather than legitimate treatment; claiming non-work injury as work-related.