

**HOUSE BILL NO. 377**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES STOLTZE, Harris**

**Introduced: 2/23/10**

**Referred: Labor and Commerce**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act exempting certain volunteer work by amateur sports officials from certain**  
2   **requirements of the Alaska Employment Security Act."**

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

4    \* **Section 1.** AS 23.20.526(a) is amended to read:

5                   (a) In this chapter, unless the context otherwise requires, "employment" does  
6           not include

7                   (1) domestic service in a private home, except as provided in  
8           AS 23.20.525(a)(13);

9                   (2) service performed by an individual under 18 years of age in selling  
10          or distributing newspapers on the street or from house to house;

11                   (3) service not in the course of the employing unit's trade or business  
12          performed in a calendar quarter by an individual, unless the cash remuneration paid  
13          for the service is \$50 or more and the service is performed by an individual who is  
14          regularly employed by the employing unit to perform the service; an individual is here

1 considered to be regularly employed to perform service not in the course of an  
 2 employing unit's trade or business during a calendar quarter only if the individual  
 3 performs the service for some portion of the day on each of 24 days during the quarter  
 4 or during the preceding calendar quarter;

5 (4) service performed by an individual in the employ of the  
 6 individual's

7 (A) son, daughter, or spouse;

8 (B) parent or legal guardian if the individual was under the age  
 9 of 21 years and a full-time student during eight of the last 12 months and  
 10 intends to resume full-time student status within the next four months; and

11 (C) mother or father if the service is performed by a child under  
 12 the age of 18;

13 (5) service with respect to which unemployment insurance is payable  
 14 under an unemployment insurance program established by an Act of Congress;

15 (6) service performed in the employ of a foreign government including  
 16 service as a consular or other officer or employee or a nondiplomatic representative;

17 (7) service performed in the employ of an instrumentality wholly  
 18 owned by a foreign government if

19 (A) the service is of a character similar to that performed in  
 20 foreign countries by employees of the United States government or its  
 21 instrumentalities; and

22 (B) the department finds that the United States Secretary of  
 23 State has certified to the United States Secretary of the Treasury that the  
 24 foreign government, with respect to whose instrumentality exemption is  
 25 claimed, grants an equivalent exemption with respect to similar service  
 26 performed in the foreign country by employees of the United States  
 27 government and its instrumentalities;

28 (8) service performed by an insurance agent, insurance solicitor, real  
 29 estate broker, real estate salesperson, or securities salesperson to the extent the person  
 30 is compensated by commission, unless the service is required to be covered under the  
 31 Federal Unemployment Tax Act, as amended;

1                   (9) notwithstanding AS 23.20.525(a)(9), service performed by an  
 2 officer or member of the crew of an American vessel on or in connection with the  
 3 vessel, if the operating office, from which the operations of the vessel operating on  
 4 navigable waters inside or inside and outside the United States are ordinarily and  
 5 regularly supervised, managed, directed, and controlled, is outside this state;

6                   (10) service performed on or in connection with a vessel not an  
 7 American vessel by an individual if the individual performed service on and in  
 8 connection with the vessel when outside the United States;

9                   (11) service performed in the employ of the United States government  
 10 or an instrumentality of the United States exempt under the Constitution of the United  
 11 States from the contributions imposed by this chapter, except that to the extent that the  
 12 Congress of the United States permits states to require an instrumentality of the United  
 13 States to make payments into an unemployment fund under a state employment  
 14 security law, all of the provisions of this chapter apply to the instrumentalities, and to  
 15 service performed for the instrumentalities in the same manner, to the same extent, and  
 16 on the same terms as to all other employers, employing units, individuals, and service;  
 17 however, if this state is not certified for any year by the United States Secretary of  
 18 Labor under 26 U.S.C. 3304(c) (Federal Unemployment Tax Act, Internal Revenue  
 19 Code), the payments required of the instrumentalities with respect to the year shall be  
 20 refunded by the department from the fund in the same manner and within the same  
 21 period as is provided in AS 23.20.225 with respect to contributions erroneously  
 22 collected;

23                   (12) service performed in the employ of another state, or political  
 24 subdivision of another state, or an instrumentality of another state or political  
 25 subdivision that is wholly owned by another state or its political subdivision, or a  
 26 service performed in the employ of an instrumentality of another state or its political  
 27 subdivisions to the extent that the instrumentality is, with respect to the service,  
 28 exempt under the Constitution of the United States from the tax imposed by 26 U.S.C.  
 29 3301 (Federal Unemployment Tax Act, Internal Revenue Code);

30                   (13) service performed in the employ of an international organization;

31                   (14) service covered by an election approved by the agency charged

1 with the administration of any other state or federal employment security law, in  
2 accordance with an arrangement under AS 23.20.090(a) during the effective period of  
3 the election;

4 (15) service performed by an individual in agricultural labor, except as  
5 provided in AS 23.20.525(a)(14); the term "agricultural labor" means remunerated  
6 service

7 (A) on a farm, in the employ of any person in connection with  
8 cultivating the soil, or in connection with raising or harvesting any agricultural  
9 or horticultural commodity, including the raising, shearing, feeding, caring for,  
10 training, and management of livestock, bees, poultry, and fur-bearing animals  
11 and wildlife;

12 (B) in the employ of the owner or tenant or other operator of a  
13 farm, in connection with the operation, management, conservation,  
14 improvement, or maintenance of the farm and its tools and equipment, or in  
15 salvaging timber or clearing land of brush and other debris left by a hurricane,  
16 if the major part of the service is performed on a farm;

17 (C) in connection with the production or harvesting of any  
18 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.  
19 15(g), Agricultural Marketing Act), as amended, or in connection with the  
20 operation or maintenance of ditches, canals, reservoirs, or waterways, not  
21 owned or operated for profit, used exclusively for supplying and storing water  
22 for farming purposes;

23 (D) in the employ of the operator of a farm in handling,  
24 planting, drying, packing, packaging, processing, freezing, grading, storing, or  
25 delivering to storage or to market or to a carrier for transportation to market, in  
26 its unmanufactured state, any agricultural or horticultural commodity; but only  
27 if the operator produced more than one-half of the commodity with respect to  
28 which the service is performed except as stated in (b) of this section;

29 (E) in the employ of a group of operators of farms, or a  
30 cooperative organization of which the operators are members, in the  
31 performance of service described in (D) of this paragraph, but only if the

1 operators produced more than one-half of the commodity with respect to which  
 2 the service is performed;

3 (F) on a farm operated for profit if the service is not in the  
 4 course of the employer's trade or business;

5 (16) service performed as a student nurse in the employ of a hospital or  
 6 a nurses' training school by an individual who is enrolled and is regularly attending  
 7 classes in a nurses' training school chartered or approved in accordance with the laws  
 8 of this state, and service performed as an intern in the employ of a hospital by an  
 9 individual who has completed a four-year course in a medical school chartered or  
 10 approved in accordance with the laws of this state, unless the service is required to be  
 11 covered under the Federal Unemployment Tax Act;

12 (17) service performed by an individual on a boat engaged in catching  
 13 fish or other forms of aquatic animal life under an arrangement with the owner or  
 14 operator of that boat under which

15 (A) that individual does not receive any cash remuneration  
 16 except as provided in (B) of this paragraph;

17 (B) that individual receives a share of the boat's, or the boats' in  
 18 the case of a fishing operation involving more than one boat, catch of fish or  
 19 other forms of aquatic animal life or a share of the proceeds from the sale of  
 20 that catch; and

21 (C) the amount of that individual's share depends on the  
 22 amount of the boat's, or the boats' in the case of a fishing operation involving  
 23 more than one boat, catch of fish or other forms of aquatic animal life; but only  
 24 if the operating crew of that boat, or each boat from which the individual  
 25 receives a share in the case of a fishing operation involving more than one  
 26 boat, is normally made up of fewer than 10 individuals;

27 (18) service performed as a prospective or impaneled juror in a court;

28 (19) service performed for a corporation by an employee of the  
 29 corporation if

30 (A) the corporation is incorporated under AS 10.06;

31 (B) the corporation is not a government corporation; and

1 (C) the employee is an executive officer of the corporation;

2 (20) service performed by an individual who drives a taxicab whose  
3 compensation and written contractual arrangements are as described in  
4 AS 23.10.055(a)(13);

5 (21) service of an individual who

6 (A) directly sells or solicits the sale of consumer products, for  
7 resale or otherwise, personally to a prospective consumer in the home or  
8 otherwise than in a permanent retail establishment; a sale or solicitation by  
9 telephone, mail, other telecommunications method, or other nonpersonal  
10 method does not satisfy the requirement of this subparagraph;

11 (B) is compensated solely by

12 (i) commissions on sales or other remuneration directly  
13 related to sales or sales performance; or

14 (ii) a profit represented by the difference between the  
15 wholesale cost of the product to the seller and the final sale price to the  
16 consumer; and

17 (C) performs under a written contract with the person for whom  
18 the service is performed that provides, notwithstanding AS 23.20.395(a), that  
19 the individual is not an employee for purposes of this chapter or for federal or  
20 state tax purposes;

21 (22) temporary services related to emergency oil spill training and  
22 response activities by an individual described in (17) of this subsection; in this  
23 paragraph, "temporary" means a period of less than seven continuous days; and

24 (23) volunteer work performed by a person engaged on a contract  
25 basis as a sports official at a sports event for which the competitors are not paid a  
26 wage or salary; however, the exemption provided under this paragraph does not  
27 apply to a claim for benefits under this chapter that is related to a sports event or  
28 competition sponsored by an employer for whom the person making the claim  
29 normally performs work, including work as a teacher, coach, or administrator,  
30 that is not sports official work; in this paragraph,

31 (A) "sports official" is a participant in a sports event or

1 competition whose participation is neutral with respect to who wins or  
2 loses, including an umpire, referee, judge, scorekeeper, timekeeper, or  
3 organizer;

4 (B) "volunteer work" means work for which compensation  
5 does not exceed \$1,500 a year and is paid only to defray or reimburse the  
6 reasonable food, travel, and incidental expenses the person incurs in order  
7 to perform the work or as a result of performing the work.