

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 265(JUD)

1 Page 9, following line 13:

2 Insert a new bill section to read:

3 **** Sec. 15.** AS 23.20.526(a) is amended to read:

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

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

8 (2) **newsboys' services** [SERVICE PERFORMED BY AN
9 INDIVIDUAL UNDER 18 YEARS OF AGE] in selling or distributing newspapers on
10 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
15 considered to be regularly employed to perform service not in the course of an
16 employing unit's trade or business during a calendar quarter only if the individual
17 performs the service for some portion of the day on each of 24 days during the quarter
18 or during the preceding calendar quarter;

19 (4) service performed by an individual in the employ of the
20 individual's

21 (A) son, daughter, or spouse;

22 (B) parent or legal guardian if the individual was under the age
23 of 21 years and a full-time student during eight of the last 12 months and

1 intends to resume full-time student status within the next four months; and

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

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

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

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

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

13 (B) the department finds that the United States Secretary of
14 State has certified to the United States Secretary of the Treasury that the
15 foreign government, with respect to whose instrumentality exemption is
16 claimed, grants an equivalent exemption with respect to similar service
17 performed in the foreign country by employees of the United States
18 government and its instrumentalities;

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

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

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

31 (11) service performed in the employ of the United States government

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

14 (12) service performed in the employ of another state, or political
15 subdivision of another state, or an instrumentality of another state or political
16 subdivision that is wholly owned by another state or its political subdivision, or a
17 service performed in the employ of an instrumentality of another state or its political
18 subdivisions to the extent that the instrumentality is, with respect to the service,
19 exempt under the Constitution of the United States from the tax imposed by 26 U.S.C.
20 3301 (Federal Unemployment Tax Act, Internal Revenue Code);

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

22 (14) service covered by an election approved by the agency charged
23 with the administration of any other state or federal employment security law, in
24 accordance with an arrangement under AS 23.20.090(a) during the effective period of
25 the election;

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

29 (A) on a farm, in the employ of any person in connection with
30 cultivating the soil, or in connection with raising or harvesting any agricultural
31 or horticultural commodity, including the raising, shearing, feeding, caring for,

1 training, and management of livestock, bees, poultry, and fur-bearing animals
2 and wildlife;

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

8 (C) in connection with the production or harvesting of any
9 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.
10 15(g), Agricultural Marketing Act), as amended, or in connection with the
11 operation or maintenance of ditches, canals, reservoirs, or waterways, not
12 owned or operated for profit, used exclusively for supplying and storing water
13 for farming purposes;

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

20 (E) in the employ of a group of operators of farms, or a
21 cooperative organization of which the operators are members, in the
22 performance of service described in (D) of this paragraph, but only if the
23 operators produced more than one-half of the commodity with respect to which
24 the service is performed;

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

27 (16) service performed as a student nurse in the employ of a hospital or
28 a nurses' training school by an individual who is enrolled and is regularly attending
29 classes in a nurses' training school chartered or approved in accordance with the laws
30 of this state, and service performed as an intern in the employ of a hospital by an
31 individual who has completed a four-year course in a medical school chartered or

1 approved in accordance with the laws of this state, unless the service is required to be
2 covered under the Federal Unemployment Tax Act;

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

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

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

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

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

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

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

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

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

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

27 (21) service of an individual who

28 (A) directly sells or solicits the sale of consumer products, for
29 resale or otherwise, personally to a prospective consumer in the home or
30 otherwise than in a permanent retail establishment; a sale or solicitation by
31 telephone, mail, other telecommunications method, or other nonpersonal

1 method does not satisfy the requirement of this subparagraph;

2 (B) is compensated solely by

3 (i) commissions on sales or other remuneration directly
4 related to sales or sales performance; or

5 (ii) a profit represented by the difference between the
6 wholesale cost of the product to the seller and the final sale price to the
7 consumer; and

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

12 (22) temporary services related to emergency oil spill training and
13 response activities by an individual described in (17) of this subsection; in this
14 paragraph, "temporary" means a period of less than seven continuous days."
15

16 Renumber the following bill sections accordingly.

17
18 Page 15, lines 1 - 2:

19 Delete "sec. 25"

20 Insert "sec. 26"

21
22 Page 15, line 16:

23 Insert a new bill section to read:

24 **** Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **RETROACTIVITY.** Section 15 of this Act is retroactive to June 21, 2009."
27

28 Renumber the following bill sections accordingly.

29
30 Page 15, line 19:

31 Delete "Section 21"

1 Insert "Section 22"

2

3 Page 15, line 22:

4 Delete "sec. 21"

5 Insert "sec. 22"

6

7 Page 15, line 24:

8 Delete "sec. 30"

9 Insert "sec. 32"