

HOUSE BILL NO. 276

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE THOMPSON

Introduced: 1/24/14

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act making the Alaska Wage and Hour Act inapplicable to certain employees of**
2 **motor vehicle dealers; and providing for an effective date."**

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

4 *** Section 1.** AS 23.10.055(a) is amended to read:

5 (a) The provisions of AS 23.10.050 - 23.10.150 do not apply to

6 (1) an individual employed in agriculture, which includes farming in
7 all its branches and, among other things, includes the cultivation and tillage of the soil,
8 dairying, the production, cultivation, growing, and harvesting of any agricultural or
9 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or
10 poultry, and any practices, including forestry and lumbering operations, performed by
11 a farmer or on a farm as an incident to or in conjunction with the farming operations,
12 including preparation for market, or delivery to storage or to market or to carriers for
13 transportation to market;

14 (2) an individual employed in the catching, trapping, cultivating or

1 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of
2 animal and vegetable life;

3 (3) an individual employed in the hand picking of shrimp;

4 (4) an individual employed in domestic service, including a baby-
5 sitter, in or about a private home;

6 (5) an individual employed by the United States or by the state or a
7 political subdivision of the state, except as provided in AS 23.10.065(b), including
8 prisoners not on furlough detained or confined in prison facilities;

9 (6) an individual engaged in the nonprofit activities of a nonprofit
10 religious, charitable, cemetery, or educational organization or other nonprofit
11 organization where the employer-employee relationship does not, in fact, exist, and
12 where services rendered to the organization are on a voluntary basis and are related
13 only to the organization's nonprofit activities; for purposes of this paragraph,
14 "nonprofit activities" means activities for which the nonprofit organization does not
15 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

16 (7) an employee engaged in the delivery of newspapers to the
17 consumer;

18 (8) an individual employed solely as a watchman or caretaker of a
19 plant or property that is not in productive use for a period of four months or more;

20 (9) an individual employed

21 (A) in a bona fide executive, administrative, or professional
22 capacity;

23 (B) in the capacity of an outside salesman or a salesman who is
24 employed on a straight commission basis; or

25 (C) as a computer systems analyst, computer programmer,
26 software engineer, or other similarly skilled worker;

27 (10) an individual employed in the search for placer or hard rock
28 minerals;

29 (11) an individual under 18 years of age employed on a part-time basis
30 not more than 30 hours in a week;

31 (12) employment by a nonprofit educational or child care facility to

1 serve as a parent of children while the children are in residence at the facility if the
 2 employment requires residence at the facility and is compensated on a cash basis
 3 exclusive of room and board at an annual rate of not less than

4 (A) \$10,000 for an unmarried person; or

5 (B) \$15,000 for a married couple;

6 (13) an individual who drives a taxicab, is compensated for taxicab
 7 services exclusively by customers of the service, whose written contractual
 8 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch
 9 services are based upon flat contractual rates and not based on a percentage share of
 10 the individual's receipts from customers, and whose written contract with owners of
 11 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that
 12 the contract places no restrictions on hours worked by the individual or on areas in
 13 which the individual may work except to comply with local ordinances;

14 (14) a person who holds a license under AS 08.54 and who is
 15 employed by a registered guide-outfitter or master guide-outfitter licensed under AS
 16 08.54, for the first 60 workdays in which the person is employed by the registered
 17 guide-outfitter or master guide-outfitter during a calendar year;

18 (15) an individual engaged in activities for a nonprofit religious,
 19 charitable, civic, cemetery, recreational, or educational organization where the
 20 employer-employee relationship does not, in fact, exist, and where services are
 21 rendered to the organization under a work activity requirement of AS 47.27 (Alaska
 22 temporary assistance program);

23 (16) an individual who

24 (A) provides emergency medical services only on a voluntary
 25 basis;

26 (B) serves with a full-time fire department only on a voluntary
 27 basis; or

28 (C) provides ski patrol services on a voluntary basis; [OR]

29 (17) a student participating in a University of Alaska practicum
 30 described under AS 14.40.065;

31 **(18) an individual who is employed by a motor vehicle dealer and**

1 whose primary duty is to

2 (A) receive, analyze, or reference requests for service,
3 repair, or analysis of motor vehicles;

4 (B) arrange financing for the sale of motor vehicles and
5 related products and services that are added or included as part of the
6 sale; or

7 (C) solicit, sell, lease, or exchange motor vehicles.

8 * Sec. 2. AS 23.10.055 is amended by adding a new subsection to read:

9 (d) In (a)(18) of this section,

10 (1) "lease" means a contract by which a person owning a motor vehicle
11 grants to another person the right to possess, use, and enjoy the motor vehicle for a
12 specified period of time in exchange for periodic payment of a stipulated price and in
13 which the use of the vehicle is granted for a period of at least 12 months;

14 (2) "motor vehicle" has the meaning given in AS 45.25.990;

15 (3) "motor vehicle dealer" has the meaning given in AS 08.66.350,
16 except that, in this paragraph, notwithstanding the definition of "motor vehicle dealer"
17 given in AS 08.66.350, "motor vehicle" has the meaning given in this section.

18 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).