

ALASKA STATE LEGISLATURE

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REPRESENTATIVE STEVE THOMPSON

DISTRICT 3

Sponsor Statement HB 276

“An Act making the Alaska Wage and Hour Act inapplicable to certain employees of motor vehicle dealers; and providing for an effective date”

House Bill 276 clarifies that auto salespersons and service writers are exempt from Alaska’s Minimum Wage and Hour Act. These individuals are paid on a commission basis and are not and have never been hourly employees.

HB 276 is a result of confusion caused by previous regulations from the Department of Labor and Workforce Development that defined straight commission as “a fixed percentage of each dollar of sales an employee makes.” This became interpreted as meaning the commission must be applied to the gross amount of a sale.

While that interpretation might be appropriate for some commission sales, it is neither appropriate nor customary for auto sales. The prime reason is that the auto dealer must pay for the vehicle first out of the sale price. Advertising laws prevent an “add-on” charge to an advertised sale price to accommodate a commission. Thus, if the net of a sale is 3% of the gross, the dealer cannot pay a commission of 5%. This legislation allows for auto dealers’ common practice of using a net amount against which the commission is applied.

The Department of Labor and Workforce Development did amend its regulations and has been extremely helpful working with the Alaska Auto Dealers Association on this issue. However, as a result of litigation and with the advice of legal counsel, we believe that it is necessary to seek final clarification in statute.

Please join Representative Thompson and support HB 276.

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