

Repairing, rehabilitating and equipping of the facilities at Valdez .....	\$379,600	Total	\$533,400
Expenses involved in transferring patients to Valdez .....	18,800		

Sec. 2. This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved May 2, 1959

## CHAPTER 171

### AN ACT

To prescribe minimum wage and overtime compensation standards for employees to be known as the "Alaska Wage and Hour Act", exempting certain classes of employees; providing for enforcement; defining violations and prescribing penalties and remedies; repealing Chapter 185, SLA 1955; and providing for an effective date.

(2nd C.S.H.B.101)

Be it enacted by the Legislature of the State of Alaska:

Section 1. **Declaration of State Public Policy: Alaska Wage and Hour Act.** The public policy of the state declared in this Act, which may be cited as the "Alaska Wage and Hour Act", is (1) to establish minimum wage, and overtime compensation standards for workers at levels consistent with their health, efficiency and general well-being, and (2) to safeguard existing minimum wage and overtime compensation standards which are adequate to maintain the health, efficiency and general well-being of workers against the unfair competition of wage and hour standards which do not provide such adequate standards of living.

Sec. 2. **Exemptions: Definitions.** (1) This Act shall not apply to:

(a) any individual employed in agriculture which shall include farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer, or on a farm, as an incident to, or in conjunction with, such farming operations, includ-

ing preparation for market, delivery to storage, or to market, or to carriers for transportation to market;

(b) any individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;

(c) any individual employed in the hand picking of shrimp;

(d) any individual employed in domestic service (including baby-sitters) in or about a private home;

(e) any individual employed by the United States, or by the state, or any political subdivision thereof;

(f) any individual engaged in the activities of a non-profit religious, charitable, cemetery or educational organization where the employer-employee relationship does not, in fact, exist, and where services rendered to such organizations are on a voluntary basis;

(g) any employee engaged in the delivery of newspapers to the consumer;

(h) any individual employed solely as a watchman or caretaker of any premises, property or plant that is not in productive use for a period of four months or more;

(i) any individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or any salesman who is employed on a straight commission basis;

(j) any individual employed in the search for minerals of economic value; or

(k) any individual, under eighteen years of age employed on a part-time basis not more than 20 hours in any week.

(2) Terms as used in this Act shall be defined, where applicable, in the manner that they are defined in the Federal Fair Labor Standards Act of 1938, as amended, or regulations adopted pursuant thereto.

**Sec. 3. Overtime Hours.** No employer who employs employees engaged in commerce, or other business, or in the production of goods or materials in Alaska, shall employ any of his employees not acting in a supervisory capacity, either male or female, for a workweek longer than forty hours or for more than eight hours per day, except that should the employer find it necessary to employ any employee in excess of the hours provided for, compensation for such overtime at the rate of one and one-half times the regular rate of pay shall be paid, and this provision shall be deemed to be included in all contracts of employment entered into hereafter; provided that the provisions of this section shall not apply with respect to:

(1) any employee exempt under Sec. 13(a), (b) and (c) of the Fair Labor Standards Act of 1938, as amended;

(2) any employee employed at a guaranteed salary of more than five hundred fifty (\$550.00) dollars a month in a bona fide executive, administrative, or professional capacity as defined by regulation of the Commissioner;

(3) any employee employed in handling, processing, curing, or storing (including cold storage) of any kind of fish, shellfish, or any other aquatic forms of animal or vegetable life, or any by-product thereof;

(4) any employee employed in

handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(5) any employee of an employer engaged in small mining operations where not more than eight employees are employed, insofar as an employee is employed not in excess of twelve (12) hours a day or fifty-six (56) hours a week during a period or periods of not more than fourteen (14) workweeks in the aggregate in any calendar year during the mining season, as the season is defined by the Commissioner;

(6) any person subject to the provisions of the U. S. Railway Labor Act, 45 U.S.C.A. 151-188, as amended.

**Sec. 4. Minimum Wages.** Every employer, except as may be otherwise provided in this Act, shall pay to each of his employees wages at a rate of not less than \$1.50 an hour.

**Sec. 5. Handicapped Workers: Apprentices: Learners.** To the extent necessary in order to prevent curtailment of opportunities of employment, the Commissioner may by regulations or by orders, provide, by issuance of special certificates, for the employment at wages lower than the minimum wage presented in this Act:

(1) of individuals whose earning capacity is impaired by physical or mental deficiency, age, or injury, at such wages and subject to such restrictions and for such period of time as shall be fixed by the Commissioner; and

(2) of apprentices at such wages as are approved by the Commissioner; or

(3) of learners at such wages and subject to such restrictions and for such periods of time as shall be fixed by the Commissioner.

No individual shall be employed at wages fixed pursuant to this section except under special certificate issued under applicable regulations of the Commissioner.

**Sec. 6. Administrative Agency: Powers: Duties: Administrative Procedures Act.**

(1) There shall be in the Department of Labor a division known as the "Wage and Hour Division", which division shall be in charge of a Director, responsible to the Commissioner, whose function it shall be to administer this Act. The Commissioner shall have the authority to appoint the Director and such assistants and other employees as may be necessary for the proper enforcement of this Act, and to fix their compensation, subject to the provisions of law applicable to the appointment and compensation of employees of the state. The Director may delegate to the duly authorized representative his powers, functions and duties under this Act.

(2) The Director, or his authorized representative, shall have full power and authority; and it shall be his duty:

(a) to investigate and ascertain the wages and related conditions and standards of employment of any employee in the state.

(b) to enter the place of business or employment of any employer at reasonable times for the purpose of inspecting any payroll records that relate to the question of wages paid or hours worked;

(c) to require and subpoena from any employer full and correct statements in writing, when the Director or his authorized representative deems necessary, of hours worked by and the wages paid to all persons in his employ, such statements at the discretion of the Commissioner or his authorized representatives to be under oath;

(d) to question any employee in his place of employment during work hours with respect to the wages paid and the hours worked by such employees; and

(e) to compel the attendance of witnesses and the production of books, papers and documents by subpoena when necessary for the purpose of any hearing or investigation provided for in this Act.

(3) The Director shall have the power to issue, amend or rescind such administrative regulations, not inconsistent with the purposes and provisions of this Act as may be necessary for the

efficient administration of any provision of this Act. Such regulations, without limiting the generality of the foregoing, may define terms used in this Act, may include such terms and conditions, including the restriction or prohibition of industrial homework or of such other acts or practices, as the Director finds necessary or appropriate to carry out the purposes of the Act, or to prevent the circumvention or evasion thereof, and may permit deductions by an employer from the minimum wage applicable under this Act to his employees for the reasonable cost, as determined by the Director on an occupation basis, of furnishing board or lodging if such board or lodging is customarily furnished by the employer and used by the employee.

(4) All regulations adopted or hearings conducted, pursuant to this Act shall be adopted or conducted and be subject to judicial review, in accord with the Administrative Procedures Act which shall apply to all procedures hereunder.

(5) The Commissioner may adopt such regulations and interpretations as are made or issued by the Administrator of the Wage and Hour Division of the Federal Department of Labor which are not inconsistent with this Act.

**Sec. 7. Keeping of Records.** Every employer shall keep for a period of not less than three (3) years in or about the premises wherein any employee is employed a record of the name, address, and occupation of each of his employees, the rate of pay and the amount paid each pay period to each such employee, the hours worked each day and each work-week by each such employee, and such other payroll information as the Commissioner may by regulation or order prescribe. The Commissioner or his authorized representative may copy such records at any reasonable time. Every employer shall furnish to the Commissioner or his authorized representative on demand a sworn statement of such records, and if the Commissioner shall so require, upon forms prescribed or approved by him.

**Sec. 8. Posting of Summary of the Act.** Every employer subject to this Act shall keep a summary or abstract of this Act, approved by the Commissioner, posted

in a conspicuous place in or about the premises wherein any person subject thereto is employed. Employers shall be furnished copies of such summary by the state on request without charge.

### Sec. 9. Enforcement.

(1) **Prohibited Act.** Any employer who hinders or delays the Commissioner or his authorized representative in the performance of his duties in the enforcement of this Act, or who refuses to admit the Commissioner or his authorized representative to any place of employment, or who fails to keep or falsifies any record required under the provisions of this Act, or who refuses to make such record accessible, or to furnish a sworn statement thereof, or to give information required for the proper enforcement of this Act, upon demand, to the Commissioner or his authorized representative, or who fails to post an abstract of this law as required by Section 8 of this Act, or who discharges or in any other manner discriminates against any employee because such employee has filed any complaint, or has instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, shall be deemed to have violated this Act.

(2) **Penalties.** Any employer who wilfully violates any provision of this Act, or of any regulations or order of the Commissioner issued under the authority of this Act, shall, upon conviction thereof, be punished by a fine of not less than one hundred (\$100.00) dollars nor more than two thousand (\$2,000.00) dollars, or by imprisonment for not less than ten nor more than ninety days, or by both such fine and imprisonment. Each day any such violation occurs shall constitute a separate offense.

### (3) Employees' Remedies.

(a) Any employer who violates any provision of Sec. 3 or 4 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages.

(b) Action to recover such liabil-

ity may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated, or such employee or employees may individually designate in writing an agent or representative to maintain such action for them and such consent shall be filed in the court in which such action is brought. At the request of any person paid less than the amount to which he is entitled under the provision of the Act the Commissioner shall take an assignment in trust for the employee of the full amount to which he is entitled under this subsection and may bring any legal action necessary to collect such claim.

The court in any action brought under this subsection shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of the action and reasonable attorney's fees to be paid by the defendant. Such attorney's fees in the case of actions brought under this subsection by the Commissioner shall be remitted by the Commissioner to the Department of Revenue. The Commissioner shall not be required to pay the filing fee, or other costs, in connection with such action. The Commissioner in case of suit shall have power to join various claimants against the same employer in one cause of action.

(4) **Injunction Proceedings.** Whenever it shall appear to the Commissioner that any employer is engaged in any act or practice which constitutes or will constitute a violation of any provision of this Act, or of any provision of any regulation thereunder, he may in his discretion bring an action in the District Court or its successor, to enjoin such act or practice, and to enforce compliance with this Act or with such regulation, and upon a proper showing a permanent or temporary injunction, decree, or restraining order shall be granted without bond.

(5) **Subpoena Enforcement.** In cases of failure of any person to comply with any subpoena lawfully issued under Sec. 6 of this Act, or on the refusal of any witness to produce evidence or to testify to any matter regarding which

he may be lawfully interrogated, it shall be the duty of any District Court, or its successor, or the judge thereof, upon application of the Commissioner, or his authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein.

**Sec. 10. Right of Collective Bargaining Protected.** Nothing in this Act shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish wages or conditions of work in excess of the applicable minimum under this Act, or to establish hours of work shorter than the applicable maximum under this Act.

**Sec. 11. Statute of Limitations.** Any action to enforce any cause of action for unpaid minimum wages, unpaid overtime compensation, or liquidated damages under this Act must be commenced

within two years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after it accrued.

**Sec. 12. Determination of Commencement of Actions.** In determining when an action is commenced for the purposes of Sec. 11, it shall be considered to be commenced on the date when the complaint is filed; in the case of a collective or class action instituted under Sec. 9 (c) of this Act, it shall be considered to be commenced as to any individual claimant on the date when the complaint is filed, if he is specifically named as a party plaintiff, or if his name does so appear, on the subsequent date on which his name is added as a party plaintiff.

**Sec. 13. Repealer.** Chapter 185, SLA 1955 is hereby repealed.

**Sec. 14. Effective Date.** This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved May 4, 1959

## CHAPTER 172

### AN ACT

**Relating to the assignment and collection of wage and other claims; amending subsection (e) of Sec. 43-2-11, ACLA 1949, as amended by Ch. 34, SLA 1949; and providing for an effective date.**

(S.B. 118)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. Subsection (e) of Sec. 43-2-11, ACLA 1949, as amended by Ch. 34, SLA 1949, is hereby amended to read as follows:

(e) Assignment of Wage Claims to Labor Commissioner for Recovery.

(1) The Labor Commissioner shall have power and authority to take assignments of wage claims and incidental expense accounts and advances, mechanics and other liens of employees, claims based on "stop orders" for wages and on bonds for labor, claims for damages for misrepresentation of conditions of employment,

claims against employment agencies or their bondsmen, claims for unreturned bond money of employees, claims for penalties for nonpayment of wages, claims for the return of workmen's tools in the illegal possession of another person, and claims for vacation pay and severance pay. The Labor Commissioner shall not be bound by any rule requiring the consent of the spouse of a married claimant, the filing of a lien for record before it is assigned, or prohibiting the assignment of a claim for penalty before the claim has been incurred or any other technical rule with reference to the validity of assignments. The Labor Commissioner shall have power and authority to prosecute actions for the