

HOUSE BILL NO. 539

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 3/18/04

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act exempting a person who allows a student of the University of Alaska to gain**
2 **practical work experience with the person while participating in a practicum from**
3 **vicarious liability as an employer, and exempting the student participating in a**
4 **practicum from the Alaska Wage and Hour Act and workers' compensation coverage."**

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

6 * **Section 1.** AS 14.40 is amended by adding a new section to read:

7 **Sec. 14.40.065. Student practicums.** A person who agrees to allow a student
8 of the university to gain practical work experience with the person in a practicum that
9 is part of the student's curriculum is not considered to be an employer of the student
10 for a civil action based on the vicarious liability of an employer for the acts of an
11 employee.

12 * **Sec. 2.** AS 23.10.055 is amended to read:

13 **Sec. 23.10.055. Exemptions.** The provisions of AS 23.10.050 - 23.10.150 do
14 not apply to

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

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

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

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

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

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

25 (7) an employee engaged in the delivery of newspapers to the
26 consumer;

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

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

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

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

5 (12) employment by a nonprofit educational or child care facility to
6 serve as a parent of children while the children are in residence at the facility if the
7 employment requires residence at the facility and is compensated on a cash basis
8 exclusive of room and board at an annual rate of not less than

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

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

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

19 (14) a person who holds a license under AS 08.54 and who is
20 employed by a registered guide or master guide licensed under AS 08.54, for the first
21 60 work days in which the person is employed by the registered guide or master guide
22 during a calendar year;

23 (15) an individual engaged in activities for a nonprofit religious,
24 charitable, civic, cemetery, recreational, or educational organization where the
25 employer-employee relationship does not, in fact, exist, and where services are
26 rendered to the organization under a work activity requirement of AS 47.27 (Alaska
27 temporary assistance program); [OR]

28 (16) an individual who

29 (A) provides emergency medical services only on a voluntary
30 basis;

31 (B) serves with a full-time fire department only on a voluntary

1 basis; or

2 (C) provides ski patrol services on a voluntary basis; or

3 **(17) a student participating in a University of Alaska practicum**
 4 **described under AS 14.40.065.**

5 * **Sec. 3.** AS 23.30.230(a) is amended to read:

6 (a) The following persons are not covered by this chapter:

7 (1) a part-time baby-sitter;

8 (2) a cleaning person;

9 (3) harvest help and similar part-time or transient help;

10 (4) a person employed as a sports official on a contractual basis and
 11 who officiates only at sports events in which the players are not compensated; in this
 12 paragraph, "sports official" includes an umpire, referee, judge, scorekeeper,
 13 timekeeper, organizer, or other person who is a neutral participant in a sports event;

14 (5) a person employed as an entertainer on a contractual basis;

15 (6) a commercial fisherman, as defined in AS 16.05.940;

16 (7) an individual who drives a taxicab whose compensation and written
 17 contractual arrangement is as described in AS 23.10.055(13), unless the hours worked
 18 by the individual or the areas in which the individual may work are restricted except to
 19 comply with local ordinances;

20 (8) a participant in the Alaska temporary assistance program
 21 (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than
 22 subsidized or unsubsidized work or on-the-job training; [AND]

23 (9) a person employed as a player or coach by a professional hockey
 24 team if the person is covered under a health care insurance plan provided by the
 25 professional hockey team, the coverage is applicable to both **work-related** [WORK
 26 RELATED] and **nonwork-related** [NONWORK RELATED] injuries, and the
 27 coverage provides medical and related benefits as required under this chapter, except
 28 that coverage may not be limited to two years from the date of injury as described
 29 under AS 23.30.095(a); in this paragraph, "health care insurance" has the meaning
 30 given in AS 21.12.050; **and**

31 **(10) a student participating in a University of Alaska practicum**

1 described under AS 14.40.065.