

HOUSE BILL NO. 127

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MCGUIRE, Gara, Elkins, Wilson, Kapsner, Kerttula, Anderson, Crawford

Introduced: 2/4/05

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to service in the peace corps and to service as a diplomat in the United**
2 **States Foreign Service as allowable absences from the state for purposes of eligibility for**
3 **permanent fund dividends and to the period for filing an application for a permanent**
4 **fund dividend; authorizing the Department of Revenue to issue administrative orders**
5 **imposing sanctions for certain misrepresentations or other actions concerning eligibility**
6 **for a permanent fund dividend and providing for administrative appeal of those orders;**
7 **and providing for an effective date."**

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

9 * **Section 1.** AS 43.23.008(a) is amended to read:

10 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
11 is absent from the state during the qualifying year remains eligible for a current year
12 permanent fund dividend if the individual was absent

13 (1) receiving secondary or postsecondary education on a full-time

1 basis;

2 (2) receiving vocational, professional, or other specific education on a
3 full-time basis for which, as determined by the Alaska Commission on Postsecondary
4 Education, a comparable program is not reasonably available in the state;

5 (3) serving on active duty as a member of the armed forces of the
6 United States or accompanying, as that individual's spouse, minor dependent, or
7 disabled dependent, an individual who is

8 (A) serving on active duty as a member of the armed forces of
9 the United States; and

10 (B) eligible for a current year dividend;

11 (4) serving under foreign or coastal articles of employment aboard an
12 oceangoing vessel of the United States merchant marine;

13 (5) receiving continuous medical treatment recommended by a
14 licensed physician or convalescing as recommended by the physician that treated the
15 illness if the treatment or convalescence is not based on a need for climatic change;

16 (6) providing care for a parent, spouse, sibling, child, or stepchild with
17 a critical life-threatening illness whose treatment plan, as recommended by the
18 attending physician, requires travel outside the state for treatment at a medical
19 specialty complex;

20 (7) providing care for the individual's terminally ill family member;

21 (8) settling the estate of the individual's deceased parent, spouse,
22 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

23 (9) serving as a member of the United States Congress;

24 (10) serving on the staff of a member from this state of the United
25 States Congress;

26 (11) serving as an employee of the state in a field office or other
27 location;

28 (12) accompanying a minor who is absent under (5) of this subsection;

29 (13) accompanying another eligible resident who is absent for a reason
30 permitted under (1), (2), (5) - (12), [OR] (14), (15), or (16) of this subsection as the
31 spouse, minor dependent, or disabled dependent of the eligible resident;

1 (14) **serving as a volunteer in the federal peace corps program;**
 2 **(15) serving as a diplomat in the United States Foreign Services;**
 3 **(16)** for any reason consistent with the individual's intent to remain a
 4 state resident, provided the absence or cumulative absences do not exceed

5 (A) 180 days in addition to any absence or cumulative absences
 6 claimed under (3) of this subsection if the individual is not claiming an absence
 7 under (1), (2), or **(4) - (15)** [(4) - (13)] of this subsection;

8 (B) 120 days in addition to any absence or cumulative absences
 9 claimed under (1) - (3) of this subsection if the individual is not claiming an
 10 absence under **(4) - (15)** [(4) - (13)] of this subsection but is claiming an
 11 absence under (1) or (2) of this subsection; or

12 (C) 45 days in addition to any absence or cumulative absences
 13 claimed under **(1) - (15)** [(1) - (13)] of this subsection if the individual is
 14 claiming an absence under **(1) - (15)** [(4) - (13)] of this subsection.

15 * **Sec. 2.** AS 43.23.008(b) is amended to read:

16 (b) An individual may not claim an allowable absence under **(a)(1) - (15)**
 17 [(a)(1) - (13)] of this section unless the individual was a resident of the state for at
 18 least six consecutive months immediately before leaving the state.

19 * **Sec. 3.** AS 43.23.011(a) is amended to read:

20 (a) An application for a permanent fund dividend shall be filed during the
 21 period that begins **January 1** [JANUARY 2] and ends March 31 of that dividend year.

22 * **Sec. 4.** AS 43.23.035(c) is amended to read:

23 (c) **In addition to any criminal penalties imposed by state law, if the**
 24 **department finds that an** [AN] individual [WHO], in claiming a permanent fund
 25 dividend, or an individual [WHO], in certifying another person's eligibility, wilfully
 26 misrepresents, exercises gross negligence **with respect to**, or recklessly disregards a
 27 material fact pertaining to, eligibility, **the department may issue an order against**
 28 **the individual for the**

29 **(1) forfeiture of** [FORFEITS] the dividend;

30 **(2) imposition of** [, IS SUBJECT TO] a civil fine of up to **\$3,000;**
 31 [\$5,000,] and

1 **(3) loss of** [LOSES] eligibility to receive the next five dividends
2 following the forfeited **dividend** [DIVIDENDS. THE COMMISSIONER MAY
3 COMMENCE PROCEEDINGS IN COURT TO ENFORCE THIS SUBSECTION].

4 * **Sec. 5.** AS 43.23.035 is amended by adding a new subsection to read:

5 (e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of,
6 and to appeal of, a decision under (c) of this section by an individual aggrieved by the
7 decision. When all appeals have been exhausted under this chapter or the time when
8 all of the appeals that could have been taken has expired, the order issued imposing a
9 civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same
10 manner as a judgment of the court.

11 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 REGULATIONS AND APPLICATION. (a) The Department of Revenue may
14 immediately adopt regulations necessary to implement the changes made by secs. 3 - 5 of this
15 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
16 before July 1, 2005.

17 (b) AS 43.23.035(c), as amended in sec. 4 of this Act, and AS 43.23.035(e), as added
18 in sec. 5 of this Act, apply only with respect to applications filed on or after July 1, 2005.
19 AS 43.23.035(c) as it read immediately before July 1, 2005, applies with respect to
20 applications filed before July 1, 2005.

21 * **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

22 * **Sec. 8.** Sections 3 - 5 of this Act take effect July 1, 2005.

23 * **Sec. 9.** Sections 1 and 2 of this Act take effect January 1, 2006.