

CS FOR HOUSE BILL NO. 182(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/17/05

Referred: Finance

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a**
2 **person acting in a supervisory capacity; providing definitions for persons employed in**
3 **administrative, executive, and professional capacities, for persons working in the**
4 **capacity of an outside salesman, and for persons working in the capacity of a salesman**
5 **employed on a straight commission basis."**

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

7 *** Section 1.** AS 23.10.060(a) is amended to read:

8 (a) An employer who employs employees engaged in commerce or other
9 business, or in the production of goods or materials in the state, may not employ an
10 employee for a workweek longer than 40 hours or for more than eight hours a day.
11 [THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF A PERSON
12 ACTING IN A SUPERVISORY CAPACITY.]

13 *** Sec. 2.** AS 23.10.085(b) is amended to read:

1 (b) The regulations may, without limiting the generality of (a) of this section,
 2 define terms used in AS 23.10.050 - 23.10.150, and restrict or prohibit industrial
 3 homework or other acts or practices that the director finds appropriate to carry out the
 4 purpose of AS 23.10.050 - 23.10.150, or to prevent the circumvention or evasion of
 5 AS 23.10.050 - 23.10.150. [IF THE REGULATIONS DEFINING AN INDIVIDUAL
 6 EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR
 7 PROFESSIONAL CAPACITY FOR PURPOSES OF AS 23.10.055 REQUIRE THAT
 8 THE INDIVIDUAL RECEIVE A MINIMUM SALARY, THE REQUIRED
 9 MINIMUM SALARY MUST BE TWO TIMES THE STATE MINIMUM WAGE
 10 FOR THE FIRST 40 HOURS OF EMPLOYMENT EACH WEEK.]

11 * **Sec. 3.** AS 23.10.145 is amended by adding a new subsection to read:

12 (b) In AS 23.10.050 - 23.10.150,

13 (1) "individual employed in an administrative capacity" means an
 14 employee

15 (A) who is compensated on a salary or fee basis at a rate of not
 16 less than two times the state minimum wage for the first 40 hours of
 17 employment each week, exclusive of board, lodging, or other facilities;

18 (B) whose primary duty is the performance of office or
 19 nonmanual work directly related to the management or general business
 20 operations of the employer or the employer's customers; and

21 (C) whose primary duty includes the exercise of discretion and
 22 independent judgment with respect to matters of significance;

23 (2) "individual employed in an executive capacity" means an employee

24 (A) who is compensated on a salary or fee basis at a rate of not
 25 less than two times the state minimum wage for the first 40 hours of
 26 employment each week, exclusive of board, lodging, or other facilities;

27 (B) whose primary duty is management of the enterprise in
 28 which the employee is employed or of a customarily recognized department or
 29 subdivision of the enterprise;

30 (C) who customarily and regularly directs the work of two or
 31 more other employees; and

1 (D) who has the authority to hire or fire other employees or
2 whose suggestions and recommendations as to the hiring, firing, advancement,
3 promotion, or any other change of status of other employees are given
4 particular weight;

5 (3) "individual employed in a professional capacity" means an
6 employee

7 (A) who is compensated on a salary or fee basis at a rate of not
8 less than two times the state minimum wage for the first 40 hours of
9 employment each week, exclusive of board, lodging, or other facilities;

10 (B) whose primary duty is to

11 (i) perform work requiring knowledge of an advanced
12 type in a field of science or learning customarily acquired by a
13 prolonged course of specialized intellectual instruction;

14 (ii) perform work requiring invention, imagination,
15 originality, or talent in a recognized field of artistic or creative
16 endeavor;

17 (iii) teach, tutor, instruct, or lecture in the activity of
18 imparting knowledge as a teacher certified or recognized as such in a
19 school or other educational establishment or institution; or

20 (iv) perform computer related occupations that are
21 exempted from the Fair Labor Standards Act under 29 C.F.R. Part
22 541.400;

23 (4) "outside salesman" means an employee

24 (A) who is customarily and regularly away from the employer's
25 place of business; and

26 (B) whose primary duty is making sales or contracts for sales,
27 consignments, or shipment, or obtaining orders for service or for use of
28 facilities for which consideration will be paid by the client or customer;

29 (5) "salesman employed on a straight commission basis" means an
30 employee

31 (A) who is customarily and regularly employed on the business

1 premises of the employer;

2 (B) who is compensated on a straight commission basis for the
3 purpose of making sales or contracts for sales, consignments, shipments, or
4 obtaining orders for services or the use of facilities for which a consideration
5 will be paid by the client or customer; and

6 (C) whose primary duty is making sales or contracts for sales,
7 consignments, shipments, or obtaining orders for service or the use of facilities
8 for which a consideration will be paid by the client or customer.