

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 190(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/12/12

Referred: Rules

Sponsor(s): REPRESENTATIVES FEIGE, Chenault, Herron, Peggy Wilson, Johnson, Muñoz, Lynn

SENATORS Thomas, Giessel, Meyer, Menard

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to allowable absences from the state for purposes of eligibility for
2 permanent fund dividends; and providing for an effective date."

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

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

5 (a) Subject to (b), [AND] (c), and (e) of this section, an otherwise eligible
6 individual who is absent from the state during the qualifying year remains eligible for
7 a current year permanent fund dividend if the individual was absent

8 (1) receiving secondary or postsecondary education on a full-time
9 basis;

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

13 (3) serving on active duty as a member of the armed forces of the
14 United States or accompanying, as that individual's spouse, minor dependent, or

1 disabled dependent, an individual who is

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

4 (B) eligible for a current year dividend;

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

7 (5) receiving continuous medical treatment recommended by a
8 licensed physician or convalescing as recommended by the physician who treated the
9 illness if the treatment or convalescence is not based on a need for climatic change;

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

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

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

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

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

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

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

23 (13) accompanying another eligible resident who is absent for a reason
24 permitted under (1), (2), (5) - (12), (16), or (17) of this subsection as the spouse, minor
25 dependent, or disabled dependent of the eligible resident;

26 (14) serving as a volunteer in the federal peace corps program;

27 (15) because of training or competing as a member of the United States
28 Olympic Team;

29 (16) participating for educational purposes in a student fellowship
30 sponsored by the United States Department of Education or by the United States
31 Department of State;

1 (17) for any reason consistent with the individual's intent to remain a
2 state resident, provided the absence or cumulative absences do not exceed

3 (A) 180 days in addition to any absence or cumulative absences
4 claimed under (3) of this subsection if the individual is not claiming an absence
5 under (1), (2), or (4) - (16) of this subsection;

6 (B) 120 days in addition to any absence or cumulative absences
7 claimed under (1) - (3) of this subsection if the individual is not claiming an
8 absence under (4) - (16) of this subsection but is claiming an absence under (1)
9 or (2) of this subsection; or

10 (C) 45 days in addition to any absence or cumulative absences
11 claimed under (1) - (16) of this subsection if the individual is claiming an
12 absence under (4) - (16) of this subsection.

13 * **Sec. 2.** AS 43.23.008(c) is amended to read:

14 (c) An otherwise eligible individual who has been eligible for the immediately
15 preceding 10 dividends despite being absent from the state for more than 180 days in
16 each of the related 10 qualifying years is only eligible for the current year dividend if
17 the individual was absent 180 days or less during the qualifying year. This subsection
18 does not apply to an absence under (a)(9) or (10) of this section or to an absence under
19 (a)(13) of this section if the absence is to accompany an individual who is absent
20 under (a)(9) or (10) of this section. **This subsection does not apply to an absence**
21 **under (a)(3) of this section.**

22 * **Sec. 3.** AS 43.23.008 is amended by adding new subsections to read:

23 (e) After an individual has been absent from the state for more than 180 days
24 in each of the five preceding qualifying years, the department shall presume that the
25 individual is no longer a state resident. Subject to the limitation in (c) of this section,
26 the individual may rebut this presumption by providing proof to the department that
27 establishes, by clear and convincing evidence, that

28 (1) the individual was physically present in the state for at least 30
29 cumulative days during the past five years; and

30 (2) the individual is a state resident as defined in AS 43.23.095(7).

31 (f) To determine whether an individual intends to return and remain in the

1 state indefinitely, the factors the department shall consider include

2 (1) the length of time the individual was absent from the state
3 compared to the length of time the individual was physically present in the state;

4 (2) the frequency and duration of voluntary return trips to the state
5 during the past five years;

6 (3) whether the individual's intent to return to and remain in the state is
7 conditioned on future events beyond the individual's control, such as the financial
8 circumstances of the individual or the ability of the individual to find employment in
9 the state;

10 (4) the ties the individual has established with the state or another
11 jurisdiction, as demonstrated by

12 (A) maintenance of a home;

13 (B) payment of resident taxes;

14 (C) registration of a vehicle;

15 (D) registration to vote and voting history;

16 (E) acquisition of a driver's license, business license, or
17 professional license; and

18 (F) receipt of benefits under a claim of residency in the state or
19 another jurisdiction;

20 (5) the priority that the individual gave the state on an employment
21 assignment preference list, including a list used by military personnel;

22 (6) whether the individual made a career choice or chose a career path
23 that does not allow the individual to reside in or return to the state.

24 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **RETROACTIVITY.** Sections 1 - 3 of this Act are retroactive to January 1, 2012.

27 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).