

SENATE BILL NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATORS WIELECHOWSKI, Ellis

Introduced: 1/21/15

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the payment of sick leave by employers; and providing for an
2 effective date."

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

4 * **Section 1.** AS 23.10.055(a) is amended to read:

5 (a) The provisions of AS 23.10.050 - 23.10.060 and 23.10.065 - 23.10.150
6 [AS 23.10.050 - 23.10.150] do not apply to

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

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

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

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

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

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

17 (7) an employee engaged in the delivery of newspapers to the
18 consumer;

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

21 (9) an individual employed

22 (A) in a bona fide executive, administrative, or professional
23 capacity;

24 (B) in the capacity of an outside salesman or a salesman who is
25 employed on a straight commission basis; or

26 (C) as a computer systems analyst, computer programmer,
27 software engineer, or other similarly skilled worker;

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

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

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

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

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

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

(14) a person who holds a license under AS 08.54 and who is employed by a registered guide-outfitter or master guide-outfitter licensed under AS 08.54, for the first 60 workdays in which the person is employed by the registered guide-outfitter or master guide-outfitter during a calendar year;

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

(16) an individual who

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

(B) serves with a full-time fire department only on a voluntary basis; or

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

(17) a student participating in a University of Alaska practicum described under AS 14.40.065;

(18) an individual who is employed by a motor vehicle dealer and whose primary duty is to

(A) receive, analyze, or reference requests for service, repair, or analysis of motor vehicles;

(B) arrange financing for the sale of motor vehicles and related products and services that are added or included as part of the sale; or

(C) solicit, sell, lease, or exchange motor vehicles.

* **Sec. 2.** AS 23.10 is amended by adding a new section to read:

Sec. 23.10.062. Minimum paid sick leave. (a) An employer shall provide to an employee who resides in the state and whose terms and conditions of employment are not subject to bargaining between the employer and a collective bargaining agent at least one hour of paid sick leave for every 40 hours the employee works. An employee who accrues paid sick leave may begin using it on a date agreed to by the employer or a date 90 days after the employee begins working for the employer, whichever occurs first. An employee may carry over unused paid sick leave from year to year.

(b) An employer is not subject to this section if the employer offers to each of its employees who reside in the state paid leave that

(1) accrues at a rate that is equal to or greater than one hour for every 40 hours worked;

(2) may be carried over from year to year; and

(3) may be used as provided by this section.

(c) For the purpose of this section, a full-time employee who is exempt from the overtime requirements of 29 U.S.C. 213(a)(1) shall be considered to have worked 40 hours for each full work week the employee completes.

(d) Subject to the limitations of this section, an employer shall permit an employee to use paid sick leave for

(1) the prevention, diagnosis, or treatment of the employee or a member of the employee's immediate family for a mental or physical illness, injury, or health condition;

(2) time the employee spends away from work because the employee

1 is the victim of a crime of sexual assault, domestic violence, or stalking for which a
 2 person has been arrested or formally charged.

3 (e) An employer who violates this section is subject to AS 23.10.110. An
 4 employer violates this section if the employer

5 (1) hinders or delays the commissioner or an authorized representative
 6 of the commissioner in the performance of a duty related to the enforcement of this
 7 section;

8 (2) refuses to admit the commissioner or an authorized representative
 9 of the commissioner to any place of employment as may be required for the
 10 enforcement of this section;

11 (3) refuses to make a record accessible, to furnish a sworn statement of
 12 the record, or to give information required for the enforcement of this section, upon
 13 demand, to the commissioner or an authorized representative of the commissioner;

14 (4) fails to post a summary or abstract of this section as required by
 15 AS 23.10.105; or

16 (5) discharges or in any other manner discriminates against an
 17 employee because the employee has filed a complaint, instituted or caused to be
 18 instituted a proceeding under or related to this section, or testified or is about to testify
 19 in a proceeding under or related to this section.

20 (f) In this section,

21 (1) "domestic partner" means a person who is cohabiting with another
 22 person in a relationship that is like a marriage but is not a legal marriage;

23 (2) "employer" means a person, other than a federal, state, or
 24 municipal government, who employs any combination of 15 or more full-time, part-
 25 time, and temporary employees who are compensated under an express or implied
 26 contract of hire that is verbal or written;

27 (3) "immediate family" means

28 (A) a spouse or domestic partner of the employee; or

29 (B) a parent, child, including a stepchild and an adopted child,
 30 and sibling of the employee if the parent, child, or sibling resides with the
 31 employee;

1 (4) "paid sick leave" means time that is compensated at the same
2 hourly rate and with the same benefits that the employee would earn while working.

3 * **Sec. 3.** AS 23.10.110(a) is amended to read:

4 (a) An employer who violates a provision of AS 23.10.060, **23.10.062**, or
5 23.10.065 is liable to an employee affected in the amount of unpaid minimum wages,
6 **unpaid sick leave**, or unpaid overtime compensation, as the case may be, and, except
7 as provided in (d) of this section, in an additional equal amount as liquidated damages.

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

10 APPLICABILITY. AS 23.10.062, enacted by sec. 2 of this Act, applies to

11 (1) work performed after September 30, 2015; and

12 (2) contracts formed after September 30, 2015.

13 * **Sec. 5.** This Act takes effect October 1, 2015.