

1 IN THE HOUSE

BY THE COMMITTEE ON COMMERCE AND LABOR

2 COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 101

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to prescribe minimum wage and over-  
7 time compensation standards for employees,  
8 excepting certain classes of employees; pro-  
9 viding for the enforcement of such pro-  
10 visions; defining violations and prescribing  
11 penalties and remedies; repealing Ch. 185,  
12 SLA 1955; and providing for an effective  
13 date."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

15 Section 1. DECLARATION OF STATE PUBLIC POLICY. It is de-  
16 clared to be the policy of this Act (1) to establish minimum wage,  
17 and overtime compensation standards for workers at levels con-  
18 sistent with their health, efficiency and general well-being, and  
19 (2) to safeguard existing minimum wage and overtime compensation  
20 standards which are adequate to maintain the health, efficiency and  
21 general well-being of workers against the unfair competition of  
22 wage and hour standards which do not provide such adequate stan-  
23 dards of living.

24 Sec. 2. DEFINITIONS. As used in this Act -

25 (1) "Commissioner" means the Commissioner of Labor or  
26 his successor.

27 (2) "Employ" includes suffer or permit to work.

28 (3) "Employer" includes any individual, partnership,  
29 association, corporation, business trust, legal representative, or

1 any person or group of persons acting directly or indirectly in  
2 the interest of an employer in relation to any employee.

3 (4) "Employee" includes any individual employed by an  
4 employer but shall not include---

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

16 (b) any individual employed in the catching, trap-  
17 ping, netting or taking of any kind of fish, shellfish, or  
18 other aquatic forms of animal or vegetable life;

19 (c) any individual employed in domestic service  
20 (including baby-sitters) in or about a private home;

21 (d) any individual employed by the United States,  
22 or by the state or any political subdivision thereof;

23 (e) any individual engaged in the activities of an  
24 educational, charitable, religious, or non-profit organiza-  
25 tion where the employer-employee relationship does not, in  
26 fact, exist or where services rendered to such organizations  
27 are on a voluntary basis;

28 (f) any employee engaged in the delivery of news-  
29 papers to the consumer;

1           (g) any individual employed solely as a watchman  
2 or caretaker of any premises, property or plant that is not  
3 in productive use for a period of four months or more; or

4           (h) any individual employed in the search for  
5 minerals of economic value.

6           (5) "Occupation" means any occupation, service, trade,  
7 business, industry, or branch or group of industries or employment  
8 or class of employment in which individuals are employed.

9           (6) "Wage" means legal tender of the United States, or  
10 checks on banks convertible into cash on demand at full face value  
11 thereof, but shall not include tips or gratuities of any kind.

12           Sec. 3. MINIMUM WAGES. Every employer, except as may be  
13 otherwise provided in this Act, shall pay to each of his employees  
14 wages at a rate of not less than \$1.50 an hour.

15           Sec. 4. OVERTIME HOURS.

16           (1) No employer shall, except as hereinafter provided  
17 in this section employ any employees, after the effective date of  
18 this section, in excess of eight (8) hours a day or forty (40)  
19 hours a week, unless such employee receives compensation for em-  
20 ployment in excess of such daily or weekly hours, whichever is  
21 greater, at a rate not less than one and one-half times the regu-  
22 lar rate at which he is employed. For the purposes of this  
23 section, a day means (a) any period of twenty-four (24) consecu-  
24 tive hours established as the workday for the employees concerned,  
25 provided such workday is not designed to evade the purposes of  
26 this Act, (b) each successive twenty-four (24) hour period consti-  
27 tuting a day, or (c) when there is no other workday established  
28 for the employees concerned, the calendar day.

29           (2) The provisions of subsection (1) shall not apply

1 with respect to:

2 (a) any employee employed at a guaranteed salary  
3 of not less than five hundred fifty (\$550.00) dollars a month  
4 in a bona fide executive, administrative, or professional  
5 capacity as defined by the Commissioner, after investigation  
6 and due notice of public hearing;

7 (b) any employee employed in handling, processing,  
8 canning, curing, or storing (including cold storage) of any  
9 kind of fish, shellfish, or any other aquatic forms of animal  
10 or vegetable life, or any by-product thereof;

11 (c) any employee employed as a "driver", as such  
12 term is defined by the Commissioner, with respect to whom the  
13 Interstate Commerce Commission has power to establish quali-  
14 fications and maximum hours of service pursuant to the pro-  
15 visions of Sec. 304 of Part II of the Interstate Commerce Act;

16 (d) any employee of an employer subject to the  
17 provisions of Part I of the Interstate Commerce Act;

18 (e) any employee of a carrier by air subject to  
19 the provisions of Title II of the Railway Labor Act;

20 (f) any employee employed in handling, packing,  
21 storing, pasteurizing, drying, preparing in their raw or  
22 natural state, or canning of agricultural or horticultural  
23 commodities for market, or in making cheese or butter or  
24 other dairy products;

25 (g) any employee employed as a "driver", as such  
26 term is defined by the Commissioner, of a street, suburban,  
27 or inter-urban electric railway, bus carrier, not included in  
28 other exemptions contained in this section;

29 (h) any employee of an employer engaged in the

1 business of operating taxicabs;

2 (i) any employee employed as a "seaman", as such  
3 term is defined by the Commissioner, by an employer engaged  
4 in the business of transportation by water; or

5 (j) any employee of an employer engaged in gold  
6 placer mining, insofar as such employee is employed not in  
7 excess of twelve (12) hours a day or fifty-six (56) hours a  
8 week during a period or periods of not more than fourteen (14)  
9 workweeks in the aggregate in any calendar year during the  
10 gold placer mining season, as such season is defined by the  
11 Commissioner.

12 Sec. 5. HANDICAPPED WORKERS: APPRENTICES: LEARNERS. To the  
13 extent necessary in order to prevent curtailment of opportunities  
14 of employment, the Commissioner may by regulations, after public  
15 hearing, provide for the employment at wages lower than the minimum  
16 wage presented in this Act:

17 (1) of individuals whose earning capacity is impaired  
18 by physical or mental deficiency or injury, at such wages and  
19 subject to such restrictions and for such period of time as shall  
20 be fixed by the Commissioner; and

21 (2) of apprentices at such wages as are approved by  
22 the Commissioner; or

23 (3) of learners at such wages and subject to such  
24 restrictions and for such periods of time as shall be fixed by the  
25 Commissioner.

26 No individual shall be employed at wages fixed pursuant to  
27 this section except under special license issued under applicable  
28 regulations of the Commissioner.

29 Sec. 6. ADMINISTRATIVE AGENCY: POWERS: DUTIES.

1           (1) There shall be in the Department of Labor a divi-  
2 sion known as the "Wage and Hour Division," which division shall  
3 be in charge of a Director, responsible to the Commissioner, whose  
4 function it shall be to administer this Act. The Commissioner  
5 shall have the authority to appoint the Director and such assist-  
6 ants and other employees as may be necessary for the proper en-  
7 forcement of this Act and to fix their compensation, subject to  
8 the provision of law applicable to the appointment and compensa-  
9 tion of employees of the state. The Director may delegate to the  
10 duly authorized representative his powers, functions and duties  
11 under this Act.

12           (2) The Director, or his authorized representative,  
13 shall have full power and authority; and it shall be his duty:

14           (a) To investigate and ascertain the wages and re-  
15 lated conditions and standards of employment of any employee  
16 in the state.

17           (b) To enter the place of business or employment  
18 of any employer for the purpose of inspecting any records  
19 that in any way relate to the question of wages paid or hours  
20 worked or for any other purpose necessary to the administra-  
21 tion or enforcement of this Act;

22           (c) To require from any employer full and correct  
23 statements in writing when the Director or his authorized  
24 representative deems necessary, of hours worked by and the  
25 wages paid to all persons in his employ, such statements at  
26 the discretion of the Commissioner or his authorized repres-  
27 entatives to be under oath;

28           (d) To question any employee in his place of em-  
29 ployment during work hours with respect to the wages paid

1 and the hours worked by such employees; and

2 (e) To carry out the provisions of this Act.

3 (3) The Director shall have the power to issue, amend  
4 or rescind such administrative regulations, not inconsistent with  
5 the purposes and provisions of this Act as may be necessary for  
6 the efficient administration of any provision of this Act. Such  
7 regulations, without limiting the generality of the foregoing, may  
8 define terms used in this Act, may include such terms and condi-  
9 tions, including the restriction or prohibition of industrial  
10 homework or of such other acts or practices, as the Director finds  
11 necessary or appropriate to carry out the purposes of the Act, or  
12 to prevent the circumvention or evasion thereof, and may permit  
13 deductions by an employer from the minimum wage applicable under  
14 this Act to his employees for the reasonable cost, as determined  
15 by the Director on an occupation basis, of furnishing board or  
16 lodging if such board or lodging is customarily furnished by the  
17 employer and used by the employee.

18 Regulations or orders of the Director relating to industrial  
19 home work, special rates and conditions of employment provided for  
20 pursuant to Sec. 5, or deductions from wages permitted under this  
21 subsection shall be issued only after notice to interested persons  
22 and a public hearing by the Director at which such persons may be  
23 heard.

24 (4) Regulations or orders issued pursuant to this sec-  
25 tion shall take effect upon publication in such newspapers and by  
26 such other means as the Director deems reasonably calculated to  
27 give to interested persons general notice of such issuance.

28 (5) The Director, or his authorized representative,  
29 shall have the power to administer oaths, to take or cause to be

1 taken the depositions of witnesses, and to require by subpoena the  
2 attendance and testimony of witnesses and the production of all  
3 books, records, and other information relative to any matter  
4 under investigation. Such subpoena shall be signed and issued  
5 by the Commissioner or his authorized representative, and shall be  
6 served and have the same effect as if issued out of the District  
7 Court or its successor.

8 (6) The Director shall have the power to certify to  
9 official acts.

10 Sec. 7. KEEPING OF RECORDS. Every employer shall keep for  
11 a period of not less than three (3) years in or about the pre-  
12 mises wherein any employee is employed a record of the name, ad-  
13 dress, and occupation of each of his employees, the rate of pay  
14 and the amount paid each pay period to each such employee, the  
15 hours worked each day and each workweek by each such employee, and  
16 such other information as the Commissioner may by regulation or  
17 order prescribe. The Commissioner or his authorized representa-  
18 tive may copy such records at any reasonable time. Every em-  
19 ployer shall furnish to the Commissioner or his authorized rep-  
20 resentative on demand a sworn statement of such records, and if  
21 the Commissioner shall so require, upon forms prescribed or ap-  
22 proved by him.

23 Sec. 8. POSTING OF SUMMARY OF THE ACT. Every employer sub-  
24 ject to this Act shall keep a summary of this Act, approved by  
25 the Commissioner, posted in a conspicuous place in or about the  
26 premises wherein any person subject thereto is employed. Em-  
27 ployers shall be furnished copies of such summaries by the State  
28 on request without charge.

29 Sec. 9. ENFORCEMENT.

1           (1) PROHIBITED ACTS. Any employer who hinders or  
2 delays the Commissioner or his authorized representative in the  
3 performance of his duties in the enforcement of this Act, or who  
4 refuses to admit the Commissioner or his authorized representative  
5 to any place of employment, or who fails to keep or falsifies any  
6 record required under the provisions of this Act, or who refuses  
7 to make such record accessible, or to furnish a sworn statement  
8 thereof, or to give information required for the proper enforcement  
9 of this Act, upon demand, to the Commissioner or his authorized  
10 representative, or who fails to post an abstract of this law as  
11 required by Section 3 of this Act or who discharges or in any other  
12 manner discriminates against any employee because such employee  
13 has filed any complaint, or has instituted or caused to be insti-  
14 tuted any proceeding under or related to this Act, or has testified  
15 or is about to testify in any such proceeding, shall be deemed to  
16 have violated this Act.

17           (2) PENALTIES. Any employer who willfully violates any  
18 provision of this Act, or of any regulation or order of the Com-  
19 missioner issued under the authority of this Act, shall, upon  
20 conviction thereof, be punished by a fine of not less than one  
21 hundred (\$100.00) dollars nor more than two thousand (\$2,000.00)  
22 dollars, or by imprisonment for not less than ten nor more than  
23 ninety days, or by both such fine and imprisonment. Each day any  
24 such violation occurs shall constitute a separate offense.

25           (3) EMPLOYEES' REMEDIES.

26           (a) Any employer who violates any provision of  
27 Sec. 3 or 4 of this Act shall be liable to the employee or  
28 employees affected in the amount of their unpaid minimum  
29 wages, or unpaid overtime compensation, as the case may be,

1 and in an additional equal amount as liquidated damages.

2 (b) Action to recover such liability may be  
3 maintained in any court of competent jurisdiction by any one  
4 or more employees for and in behalf of himself or themselves  
5 and other employees similarly situated, or such employee or  
6 employees may designate an agent or representative to main-  
7 tain such action for and in behalf of all employees simi-  
8 larly situated. At the request of any person paid less than  
9 the amount to which he is entitled under the provision of the  
10 Act the Commissioner shall take an assignment in trust for  
11 the assigning employee of the full amount to which he is en-  
12 titled under this subsection and may, with or without such  
13 assignment, bring any legal action necessary to collect such  
14 claim.

15 The Court in any action brought under this subsection  
16 shall, in addition to any judgment awarded to the plaintiff  
17 or plaintiffs, allow costs of the action and reasonable  
18 attorney's fees to be paid by the defendant. Such attorney's  
19 fees in the case of actions brought under this subsection by  
20 the Commissioner shall be remitted by the Commissioner to  
21 the Treasurer of the state. The Commissioner shall not be  
22 required to pay the filing fee, or other costs, in connection  
23 with such action. The Commissioner in case of suit shall  
24 have power to join various claimants against the same em-  
25 ployer in one cause of action.

26 (4) INJUNCTION PROCEEDINGS. Whenever it shall appear  
27 to the Commissioner that any employer is engaged in any act or  
28 practice which constitutes or will constitute a violation of any  
29 provision of this Act, or of any provision of any regulation

1 thereunder, he may in his discretion bring an action in the Dis-  
2 trict Court or its successor, to enjoin such act or practice and  
3 to enforce compliance with this Act or with such regulation, and  
4 upon a proper showing a permanent or temporary injunction, or  
5 decree or restraining order shall be granted without bond.

6 (5) SUBPOENA ENFORCEMENT. In cases of failure of any  
7 person to comply with any subpoena lawfully issued under Sec. 6  
8 of this Act or on the refusal of any witness to produce evidence  
9 or to testify to any matter regarding which he may be lawfully  
10 interrogated, it shall be the duty of any District Court or its  
11 successor, or the judge thereof, upon application of the Commis-  
12 sioner or his authorized representative, to compel obedience by  
13 proceedings for contempt, as in the case of disobedience of the  
14 requirements of a subpoena issued by such court or a refusal to  
15 testify therein.

16 No person shall be excused from attending and testifying or  
17 from producing books, papers, correspondence, memoranda, contracts,  
18 agreements, or other records and documents before the Commissioner  
19 or his authorized representative, or in obedience to the subpoena  
20 of the Commissioner or his authorized representative, or in any  
21 cause or proceeding instituted under this Act, on the ground  
22 that the testimony or evidence, documentary or otherwise, required  
23 of him may tend to incriminate him or subject him to a penalty or  
24 forfeiture; but no individual shall be prosecuted or be subject  
25 to any penalty or forfeiture for or on account of any transaction,  
26 matter of thing concerning which he is compelled to testify or  
27 produce evidence, documentary or otherwise, after having claimed  
28 his privilege against self-incrimination, except that such  
29 individual so testifying shall not be exempt from prosecution and

1 punishment for perjury committed in so testifying.

2       Sec. 10. RELATION TO OTHER LAWS. Any standards relating to  
3 minimum wage, maximum hour, overtime compensation or other work-  
4 ing conditions in effect at the date of the passage of this Act by  
5 or under any other law of the state or municipal ordinance, which  
6 are more favorable to employees than those applicable to such em-  
7 ployees under this Act or regulations or orders issued hereunder,  
8 shall not be deemed to be amended, rescinded or otherwise affected  
9 by this Act but shall continue in full force and effect and may be  
10 enforced as provided by law unless and until they are specifically  
11 superceded by standards more favorable to such employees by opera-  
12 tion of, or in accordance with regulations or order issued under  
13 this Act. No provision of this Act shall justify any employer in  
14 reducing a wage paid by him which is in excess of the applicable  
15 minimum wage under this Act, or justify any employer in increas-  
16 ing hours of employment maintained by him which are shorter than  
17 the maximum hours applicable under this Act.

18       Sec. 11. RIGHT OF COLLECTIVE BARGAINING PROTECTED. Nothing  
19 in this Act shall be deemed to interfere with, impede, or in any  
20 way diminish the right of employees to bargain collectively  
21 through representatives of their own choosing in order to estab-  
22 lish wages or conditions of work in excess of the applicable  
23 minimum under this Act, or to establish hours of work shorter than  
24 the applicable maximum under this Act.

25       Sec. 12. STATUTE OF LIMITATIONS. Any action to enforce any  
26 cause of action for unpaid minimum wages, unpaid overtime com-  
27 pensation, or liquidated damages under this Act, if the cause of  
28 action accrues after the date of enactment of this Act, must be  
29 commenced within two years after the cause of action accrued, and

1 every such action shall be forever barred unless commenced within  
2 two years after the cause of action accrued.

3       Sec. 13. DETERMINATION OF COMMENCEMENT OF ACTIONS. In deter-  
4 mining when an action is commenced for the purposes of Sec. 6, an  
5 action commenced after the date of the enactment of this Act shall  
6 be considered to be commenced on the date when the complaint is  
7 filed; except that in the case of a collective or class action  
8 instituted under Sec. 9 of this Act, it shall be considered to be  
9 commenced in the case of any individual claimant on the date when  
10 the complaint is filed if he is specifically named as a party  
11 plaintiff in the complaint, or if his name did not so appear, on  
12 the subsequent date on which his name is added as a party plain-  
13 tiff in such action.

14       Sec. 14. REPEAL. Ch. 185, SLA 1955, is hereby repealed.

15       Sec. 15. EFFECTIVE DATE. This Act shall take effect imme-  
16 diately upon its passage and approval or upon its becoming law  
17 without such approval.

18       Sec. 16. SHORT TITLE. This Act may be cited as the "Alaska  
19 Wage and Hour Act".  
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