

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 2ND 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 to be known as the "Alaska Wage and Hour  
9 Act", exempting certain classes of employees  
10 providing for enforcement; defining viola-  
11 tions and prescribing penalties and remedies  
12 repealing Chapter 185, SLA 1955; and pro-  
13 viding for an effective date."

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

15 Section 1. DECLARATION OF STATE PUBLIC POLICY: ALASKA WAGE  
16 AND HOUR ACT. The public policy of the state declared in this  
17 Act, which may be cited as the "Alaska Wage and Hour Act", is (1)  
18 to establish minimum wage, and overtime compensation standards  
19 for workers at levels consistent with their health, efficiency  
20 and general well-being, and (2) to safeguard existing minimum  
21 wage and overtime compensation standards which are adequate to  
22 maintain the health, efficiency and general well-being of workers  
23 against the unfair competition of wage and hour standards which  
24 do not provide such adequate standards of living.

25 Sec. 2. EXEMPTIONS: DEFINITIONS. (1) This Act shall not  
26 apply to:

27 (a) any individual employed in agriculture which  
28 shall include farming in all its branches and, among other  
29 things, includes the cultivation and tillage of the soil,



1 administrative or professional capacity or in the capacity of  
2 an outside salesman or any salesman who is employed on a  
3 straight commission basis;

4 (j) any individual employed in the search for  
5 minerals of economic value; or

6 (k) any individual, under eighteen years of age  
7 employed on a part-time basis not more than 20 hours in any  
8 week.

9 (2) Terms as used in this Act shall be defined, where  
10 applicable, in the manner that they are defined in the federal  
11 Fair Labor Standards Act of 1938, as amended, or regulations  
12 adopted pursuant thereto.

13 Sec. 3. OVERTIME HOURS. No employer who employs employees  
14 engaged in commerce, or other business, or in the production of  
15 goods or materials in Alaska, shall employ any of his employees not  
16 acting in a supervisory capacity, either male or female, for a work-  
17 week longer than forty hours or for more than eight hours per day,  
18 except that should the employer find it necessary to employ any em-  
19 ployee in excess of the hours provided for, compensation for such  
20 overtime at the rate of one and one-half times the regular rate of  
21 pay shall be paid, and this provision shall be deemed to be included  
22 in all contracts of employment entered into hereafter; provided that  
23 the provisions of this section shall not apply with respect to:

24 (1) any employee exempt under Sec. 13(a), (b) and (c)  
25 of the Fair Labor Standards Act of 1938, as amended;

26 (2) any employee employed at a guaranteed salary of  
27 more than five hundred fifty (\$550.00) dollars a month in a bona  
28 fide executive, administrative, or professional capacity as  
29 defined by regulation of the Commissioner;





1 of wages paid or hours worked;

2 (c) to require and subpoena from any employer full  
3 and correct statements in writing, when the Director or his  
4 authorized representative deems necessary, of hours worked  
5 by and the wages paid to all persons in his employ, such  
6 statements at the discretion of the Commissioner or his  
7 authorized representatives to be under oath;

8 (d) to question any employee in his place of  
9 employment during work hours with respect to the wages paid  
10 and the hours worked by such employees; and

11 (e) to compel the attendance of witnesses and the  
12 production of books, papers and documents by subpoena when  
13 necessary for the purpose of any hearing or investigation  
14 provided for in this Act.

15 (3) The Director shall have the power to issue, amend  
16 or rescind such administrative regulations, not inconsistent with  
17 the purposes and provisions of this Act as may be necessary for  
18 the efficient administration of any provision of this Act. Such  
19 regulations, without limiting the generality of the foregoing,  
20 may define terms used in this Act, may include such terms and  
21 conditions, including the restriction or prohibition of industrial  
22 homework or of such other acts or practices, as the Director finds  
23 necessary or appropriate to carry out the purposes of the Act,  
24 or to prevent the circumvention or evasion thereof, and may  
25 permit deductions by an employer from the minimum wage applicable  
26 under this Act to his employees for the reasonable cost, as  
27 determined by the Director on an occupation basis, of furnishing  
28 board or lodging if such board or lodging is customarily furnished  
29 by the employer and used by the employee.



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

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

23 (3) EMPLOYEES' REMEDIES.

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

29 (b) Action to recover such liability may be

1 maintained in any court of competent jurisdiction by any one  
2 or more employees for and in behalf of himself or themselves  
3 and other employees similarly situated, or such employee or  
4 employees may individually designate in writing an agent or  
5 representative to maintain such action for them and such  
6 consent shall be filed in the court in which such action is  
7 brought. At the request of any person paid less than the  
8 amount to which he is entitled under the provision of the  
9 Act the Commissioner shall take an assignment in trust for  
10 the employee of the full amount to which he is entitled under  
11 this subsection and may bring any legal action necessary to  
12 collect such claim.

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

24 (4) INJUNCTION PROCEEDINGS. Whenever it shall appear  
25 to the Commissioner that any employer is engaged in any act or  
26 practice which constitutes or will constitute a violation of any  
27 provision of this Act, or of any provision of any regulation  
28 thereunder, he may in his discretion bring an action in the  
29 District Court or its successor, to enjoin such act or practice.

1 and to enforce compliance with this Act or with such regulation,  
2 and upon a proper showing a permanent or temporary injunction,  
3 decree, or restraining order shall be granted without bond.

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

14 Sec. 10. RIGHT OF COLLECTIVE BARGAINING PROTECTED. Nothing  
15 in this Act shall be deemed to interfere with, impede, or in any  
16 way diminish the right of employees to bargain collectively  
17 through representatives of their own choosing in order to establish  
18 wages or conditions of work in excess of the applicable minimum  
19 under this Act, or to establish hours of work shorter than the  
20 applicable maximum under this Act.

21 Sec. 11. STATUTE OF LIMITATIONS. Any action to enforce  
22 any cause of action for unpaid minimum wages, unpaid overtime  
23 compensation, or liquidated damages under this Act must be commenced  
24 within two years after the cause of action accrued, and every  
25 such action shall be forever barred unless commenced within two  
26 years after it accrued.

27 Sec. 12. DETERMINATION OF COMMENCEMENT OF ACTIONS. In  
28 determining when an action is commenced for the purposes of Sec.  
29 11, it shall be considered to be commenced on the date when the

1 complaint is filed; in the case of a collective or class action  
2 instituted under Sec. 9 (c) of this Act, it shall be considered  
3 to be commenced as to any individual claimant on the date when  
4 the complaint is filed, if he is specifically named as a party  
5 plaintiff, or if his name does so appear, on the subsequent date  
6 on which his name is added as a party plaintiff.

7       Sec. 13. REPEALER. Chapter 185, SLA 1955 is hereby repealed.

8       Sec. 14. EFFECTIVE DATE. This Act shall take effect imme-  
9 diately upon its passage and approval or upon its becoming law  
10 without such approval.

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