

Introduced: 3/18/77
Referred: Labor & Management and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 372

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unemployment insurance; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 23.20.012 is repealed.

10 * Sec. 2. AS 23.20.015 is repealed.

11 * Sec. 3. AS 23.20.085(c) is amended to read:

12 (c) For the purpose of this section, the terms "other state" and
13 "another state" are considered as including any state or territory of
14 the United States, the District of Columbia, the Commonwealth of
15 Puerto Rico, the Virgin Islands, and Canada, and where applicable are
16 considered as including the federal government.

17 * Sec. 4. AS 23.20.110 is amended by adding new subsections to read:

18 (c) Upon request of an agency of this or another state or of the
19 federal government which administers or operates one or more programs
20 of public assistance under either federal law or the law of this
21 state, or which is charged with any duty or responsibility under any
22 such program, the department shall provide, with respect to any named
23 individual specified by the requesting agency, the following informa-
24 tion:

25 (1) whether the individual is receiving, has received, or
26 has made application for unemployment compensation under this chapter;

27 (2) the period, if any, for which unemployment compensation
28 was payable and the weekly rate of compensation paid;

29 (3) the individual's most recent address; and

1 (4) whether the individual has refused an offer of employ-
2 ment, and, if so, the date of the refusal and a description of the
3 employment refused, including duties, conditions of employment, and
4 rate of pay.

5 (d) The department may require that an agency to which it pro-
6 vides information under this section reimburse the department for its
7 costs of furnishing that information.

8 * Sec. 5. AS 23.20.278 is amended to read:

9 Sec. 23.20.278. FINANCING BENEFITS PAID TO EMPLOYEES OF THE
10 STATE AND ITS POLITICAL SUBDIVISIONS [STATE HOSPITALS AND INSTITUTIONS
11 OF HIGHER EDUCATION]. A political subdivision or a department,
12 division, or other agency of the [THE] state [OR AN INSTRUMENTALITY OF
13 THE STATE] subject to this chapter, under sec. 525(a)(4), (5) and (14)
14 of this chapter, shall pay contributions under the provisions of sec.
15 165 of this chapter, unless it elects to reimburse the department for
16 the unemployment compensation fund according to the provisions appli-
17 cable to nonprofit organizations under sec. 277 of this chapter.

18 * Sec. 6. AS 23.20.325(a) is amended to read:

19 (a) A service performed by an employing unit [, INCLUDING STATE
20 DEPARTMENTS AND AGENCIES, MUNICIPALITIES, OR OTHER POLITICAL SUB-
21 DIVISIONS OF THE STATE,] which is excluded under the definition of
22 employment, and with respect to which no payments are required under
23 the employment security law of another state or of the federal govern-
24 ment, is considered employment for all purposes of this chapter if the
25 department approves a written election to that effect filed by the
26 employing unit for which the service is performed, as of the date
27 stated in the approval. The department may not approve an election
28 unless it (1) includes all the service of the type specified in each
29 establishment or place of business for which the election is made, and

1 (2) is made for not less than two calendar years.

2 * Sec. 7. AS 23.20.326 is repealed.

3 * Sec. 8. AS 23.20.375(c) is amended to read:

4 (c) Benefits based on service in employment defined in sec.
5 525(a)(4), (5), [AND] (6), and (14) of this chapter are payable in the
6 same amount, on the same terms and subject to the same conditions as
7 compensation payable on the basis of other service subject to this
8 chapter; except that benefits based on service performed after December
9 31, 1977 in an instructional, research or principal administrative
10 capacity for an educational institution [IN AN INSTITUTION OF HIGHER
11 EDUCATION AS DEFINED IN SEC. 520 OF THIS CHAPTER] may not be paid to
12 an individual for any week of unemployment which begins during the
13 period between two successive academic years, or during a similar
14 period between two regular terms, whether or not successive, or during
15 a period of paid sabbatical leave provided for in the individual's
16 contract, if the individual performs services in the first of those
17 academic years or terms and if there is a contract or reasonable
18 assurance that the individual will perform services in the same or a
19 similar capacity for any educational institution in the second of
20 those academic years or terms [HAS A CONTRACT OR CONTRACTS TO PERFORM
21 SERVICES IN ANY SUCH CAPACITY FOR ANY INSTITUTION OR INSTITUTIONS OF
22 HIGHER EDUCATION FOR BOTH THE ACADEMIC YEARS OR BOTH TERMS].

23 * Sec. 9. AS 23.20 is amended by adding a new section to read:

24 Sec. 23.20.381. OTHER DISQUALIFICATIONS. (a) Benefits are not
25 payable to any individual on the basis of any services, substantially
26 all of which consist of participation in sports or athletic events or
27 training or preparing to so participate, for any week which commences
28 during the period between two successive seasons or similar periods of
29 that sport or athletic event if that individual performed the services

1 in the first of those seasons or similar periods and there is a reason-
2 able assurance that the individual will perform the same or similar
3 services in the second of those seasons or similar periods.

4 (b) Benefits are not payable on the basis of services performed
5 by an alien unless that alien is an individual who has been lawfully
6 admitted for permanent residence or otherwise is permanently residing
7 in the United States under color of law, including an alien who is
8 lawfully present in the United States as a result of the application
9 of the provisions of sec. 203(a)(7) or sec. 212(d)(5) of the Immigra-
10 tion and Nationality Act, 8 U.S.C. 1153, 8 U.S.C. 1182.

11 (c) Benefits may not be refused under (b) of this section unless
12 any data or information required of individuals to determine whether
13 benefits are not payable to them because of their alien status is
14 uniformly required of all applicants for benefits and, in the case of
15 individuals whose applications for benefits would otherwise be approved,
16 determinations that benefits to those individuals are not payable
17 because of their alien status are made only upon a preponderance of
18 the evidence in the record.

19 (d) Notwithstanding the provisions of (b) or (c) of this section,
20 any other conditions which may be required under any amendments to 26
21 U.S.C. 3304(a)(14) for allowing or denying benefits to aliens as a
22 condition of approval of the unemployment insurance laws of this state
23 under 26 U.S.C. 3304 shall be applied in determining eligibility for
24 benefits under this chapter, commencing on the date on which those
25 conditions are required by federal law to be in effect.

26 * Sec. 10. AS 23.20.408(c) is repealed.

27 * Sec. 11. AS 23.20.408(d) is repealed and re-enacted to read:

28 (d) There is a national "on" indicator for a week if, for the
29 period consisting of that week and the immediately preceding 12 weeks,

1 the rate of insured unemployment, seasonally adjusted for all states,
2 as determined by the United States Secretary of Labor by reference to
3 the average monthly covered employment for the first four of the most
4 recent six calendar quarters ending before the close of the period,
5 equaled or exceeded 4.5 per cent.

6 * Sec. 12. AS 23.20.408(e) is repealed and re-enacted to read:

7 (e) There is a national "off" indicator for a week if, for the
8 period consisting of that week and the immediately preceding 12 weeks,
9 the rate of insured unemployment, seasonally adjusted for all states,
10 as determined by the United States Secretary of Labor by reference to
11 the average monthly covered employment for the first four of the most
12 recent six calendar quarters ending before the close of the period,
13 was less than 4.5 per cent.

14 * Sec. 13. AS 23.20.408(f) is repealed and re-enacted to read:

15 (f) There is a state "on" indicator for a week if the rate of
16 insured unemployment under this chapter for the period consisting of
17 that week and the immediately preceding 12 weeks either:

18 (1) equaled or exceeded 120 per cent of the average rate of
19 insured unemployment for the corresponding 13-week period in each of
20 the preceding two calendar years and equaled or exceeded four per
21 cent; or

22 (2) equaled or exceeded five per cent.

23 * Sec. 14. AS 23.20.408(g) is repealed and re-enacted to read:

24 (g) There is a state "off" indicator for a week if neither
25 (f)(1) nor (f)(2) of this section is satisfied.

26 * Sec. 15. AS 23.20.409(5)(A) is amended to read:

27 (A) has no right to unemployment benefits or allowances,
28 as the case may be, under the Railroad Unemployment Insurance Act
29 [, THE TRADE EXPANSION ACT OF 1962, THE AUTOMOTIVE PRODUCTS TRADE

1 ACT OF 1965,] or under other federal laws which are specified in
2 regulations issued by the United States Secretary of Labor and
3 has not received and is not seeking unemployment benefits under
4 the unemployment compensation law [OF THE VIRGIN ISLANDS OR] of
5 Canada, but if he is seeking these benefits and the appropriate
6 agency finally determines that he is not entitled to benefits
7 under that law he is considered an exhaustee; and either

8 * Sec. 16. AS 23.20.520(12) is amended to read:

9 (12) "employing unit" means one or more departments or
10 other agencies of the state, a political subdivision of the state, an
11 individual, or a type of organization, partnership, association,
12 trust, estate, joint trust company, insurance company, or domestic or
13 foreign corporation, or the receiver, referee in bankruptcy, trustee,
14 or successor of one of these, or the legal representative of a deceased
15 person, which has or subsequent to January 1, 1937, had one or more
16 individuals performing service for it within the state; an individual
17 performing services inside the state for an employing unit which
18 maintains two or more separate establishments inside the state is
19 considered as employed by a single employing unit for the purposes of
20 this chapter; notwithstanding any provision in this chapter, any
21 employing unit which employs individuals whose services must be covered
22 by the unemployment insurance laws of this state after December 31,
23 1971 as a condition of approval of the unemployment insurance laws of
24 this state under sec. 3304(a) of the U.S. Internal Revenue Code of
25 1954, as amended, will be considered an employer as to those individuals
26 and is subject to contributions on all wages paid after December 31,
27 1971, or reimbursement payments to cover benefits paid based on services
28 performed after December 31, 1971, depending on the applicable law;

29 * Sec. 17. AS 23.20.520(19) is amended to read:

1 (19) "state" includes the states of the United States of
2 America, the District of Columbia, [AND] the Commonwealth of Puerto
3 Rico, and the Virgin Islands;

4 * Sec. 18. AS 23.20.525(a)(4) is amended to read:

5 (4) service performed after December 31, 1971 and through
6 December 31, 1977 by an individual in the employ of this state or any
7 instrumentality of this state, or in the employ of this state and one
8 or more states or their instrumentalities, for a hospital or institu-
9 tion of higher education in this state (except service described in
10 sec. 526(d) of this chapter) if the service is excluded from the term
11 "employment" solely by reason of sec. 3306(c)(7) of the Federal Unem-
12 ployment Tax Act;

13 * Sec. 19. AS 23.20.525(a)(5) is amended to read:

14 (5) service performed before January 1, 1978 in the employ
15 of a political subdivision of this state or a wholly owned instrumen-
16 tality of a political subdivision of this state, if coverage was [IS]
17 elected under sec. 325 or sec. 326 of this chapter;

18 * Sec. 20. AS 23.20.525(a)(7) is amended to read:

19 (7) service of an individual who is a citizen of the United
20 States, performed outside the United States (except in Canada [OR THE
21 VIRGIN ISLANDS]), after December 31, 1971 in the employ of an American
22 employer, or of this state or of any of its instrumentalities or any
23 of its political subdivisions, (other than service which is considered
24 "employment" under the provisions of (11) or (12) of this subsection
25 or the parallel provisions of the law of another state), if

26 (A) the employer's principal place of business in the
27 United States is located in this state; or

28 (B) the employer has no place of business in the
29 United States, but

1 (i) the employer is an individual who is a resident
2 of this state; or

3 (ii) the employer is a corporation which is organized
4 under the laws of this state; or

5 (iii) the employer is a partnership or a trust and
6 the number of the partners or trustees who are residents of
7 this state is greater than the number who are residents of
8 any one other state; or

9 (C) none of the criteria in (A) and (B) of this para-
10 graph is met but the employer has elected coverage in this state
11 or, the employer having failed to elect coverage in any state,
12 the individual has filed a claim for benefits, based on service
13 described in this paragraph, under the law of this state;

14 * Sec. 21. AS 23.20.525(a) is amended by adding new paragraphs to read:

15 (14) service performed after December 31, 1977 in the
16 employ of this state or any political subdivision of this state or any
17 wholly owned instrumentality of any one or more of them, if that
18 service is excluded from "employment" as defined in section 3306(c)(7)
19 of the Federal Unemployment Tax Act and is not excluded from "employ-
20 ment" under sec. 526(d)(8) of this chapter;

21 (15) domestic services performed after December 31, 1977
22 for an employer who paid wages of \$1,000 or more in any calendar
23 quarter for those services;

24 (16) service performed after December 31, 1977 by an indivi-
25 dual in agricultural labor when that service is performed for a person
26 who:

27 (A) during any calendar quarter in either the current
28 or the preceding year paid total wages of \$20,000 or more to
29 individuals employed in agricultural labor; and

1 (B) employed in agricultural labor 10 or more indivi-
2 duals for some portion of the day in each of at least 20 different
3 calendar weeks in either the current or the preceding calendar
4 year, whether or not the weeks were consecutive, and regardless
5 of whether the individuals were employed at the same moment of
6 time.

7 * Sec. 22. AS 23.20.526(a)(1) is amended to read:

8 (1) domestic service in a private home, except as provided
9 in sec. 525(a)(15) of this chapter;

10 * Sec. 23. AS 23.20.526(a)(15) is amended to read:

11 (15) service performed by an individual in agricultural
12 labor, except as provided in sec. 525(a)(16) of this chapter; the term
13 "agricultural labor" means remunerated service

14 (A) on a farm, in the employ of any person in con-
15 nection with cultivating the soil, or in connection with raising
16 or harvesting any agricultural or horticultural commodity, in-
17 cluding the raising, shearing, feeding, caring for, training, and
18 management of livestock, bees, poultry, and fur-bearing animals
19 and wildlife;

20 (B) in the employ of the owner or tenant or other
21 operator of a farm, in connection with the operation, management,
22 conservation, improvement, or maintenance of the farm and its
23 tools and equipment, or in salvaging timber or clearing land of
24 brush and other debris left by a hurricane, if the major part of
25 the service is performed on a farm;

26 (C) in connection with the production or harvesting of
27 any commodity defined as an agricultural commodity in sec. 15(g)
28 of the Agricultural Marketing Act, as amended (46 Stat. 1550,
29 sec. 3; 12 U.S.C. 1141j), or in connection with the operation or

1 maintenance of ditches, canals, reservoirs, or waterways, not
2 owned or operated for profit, used exclusively for supplying and
3 storing water for farming purposes;

4 (D) in the employ of the operator of a farm in handling,
5 planting, drying, packing, packaging, processing, freezing,
6 grading, storing or delivering to storage or to market or to a
7 carrier for transportation to market, in its unmanufactured
8 state, any agricultural or horticultural commodity; but only if
9 the operator produced more than one-half of the commodity with
10 respect to which the service is performed except as stated in (b)
11 of this section;

12 (E) in the employ of a group of operators of farms (or
13 a cooperative organization of which the operators are members) in
14 the performance of service described in (D) of this paragraph,
15 but only if the operators produced more than one-half of the
16 commodity with respect to which the service is performed;

17 (F) on a farm operated for profit if the service is
18 not in the course of the employer's trade or business or is
19 domestic service in a private home of the employer.

20 * Sec. 24. AS 23.20.526(a)(16) is repealed.

21 * Sec. 25. AS 23.20.526(d) is amended to read:

22 (d) For the purposes of secs. 525(a)(4), (5), [AND] (6), and
23 (14) of this chapter, the term "employment" does not apply to service
24 performed

25 (1) by a duly ordained, commissioned, or licensed minister
26 of a church in the exercise of his ministry or by a member of a
27 religious order in the exercise of duties required by the order;

28 (2) in a facility conducted for the purpose of carrying out
29 a program of rehabilitation for individuals whose earning capacity is

1 impaired by age or physical or mental deficiency or injury or provid-
2 ing remunerative work for individuals who, because of their impaired
3 physical or mental capacity, cannot be readily absorbed in the com-
4 petitive labor market by an individual receiving the rehabilitation or
5 remunerative work;

6 (3) as part of an unemployment work-relief or work-training
7 program assisted or financed in whole or in part by any federal agency
8 or any agency of a state or political subdivision thereof, by an
9 individual receiving work relief or work training;

10 (4) for a state hospital by an inmate of a prison or correc-
11 tional institution;

12 (5) in the employ of a school, college, or university, if
13 the service is performed by a student who is enrolled and is regularly
14 attending classes at the school, college or university;

15 (6) by an individual under the age of 22 who is enrolled at
16 a nonprofit or public educational institution which normally maintains
17 a regular faculty and curriculum and normally has a regularly organized
18 body of students in attendance at the place where its educational
19 activities are carried on as a student in a full-time program, taken
20 for credit at the institution, which combines academic instruction
21 with work experience, if the service is an integral part of the pro-
22 gram, and the institution has so certified to the employer, except
23 that this paragraph does not apply to service performed in a program
24 established for or on behalf of an employer or group of employers;

25 (7) in the employ of a hospital, if the service is per-
26 formed by a patient of a hospital, as defined in sec. 520 of this
27 chapter.

28 * Sec. 26. AS 23.20.526(d) is amended by adding a new paragraph to
29 read:

1 (8) in the employ of the state or a political subdivision
2 of the state if the service is performed by an individual in the
3 exercise of duties:

4 (A) as a "public official" as defined in AS 39.50.-
5 200(1) or any other elected official;

6 (B) as a member of the Alaska Army National Guard or
7 Alaska Air National Guard or Alaska Naval Militia; or

8 (C) as an employee serving on only a temporary basis
9 in case of fire, storm, snow, earthquake, flood, or similar
10 emergency.

11 * Sec. 27. (a) Notwithstanding the provisions of AS 23.20.350, benefits
12 may be paid to an individual after December 31, 1977 on wages earned by
13 that individual in a category of employment which was not covered under AS
14 23.20 at any time during calendar year 1975 and which was service which is
15 covered under AS 23.20, effective January 1, 1978, as the result of enactment
16 of sec. 21 of this Act.

17 (b) An employing unit which elects to make payments in place of
18 contributions as provided in AS 23.20.278, as enacted by sec. 5 of this
19 Act, is not liable to make those payments with respect to benefits paid to
20 an individual as a result of the operation of (a) of this section to the
21 extent that the unemployment compensation fund is reimbursed for those
22 benefits under sec. 121 of P. L. 94-566.

23 * Sec. 28. Secs. 11 and 12 of this Act take effect immediately in accord-
24 ance with AS 01.10.070(c) and are retroactive to December 31, 1976.

25 * Sec. 29. Secs. 13 and 14 of this Act take effect immediately in
26 accordance with AS 01.10.070(c) and are retroactive to March 30, 1977.

27 * Sec. 30. Secs. 3 and 17 of this Act take effect on the day after the
28 day on which the United States Secretary of Labor approves for the first
29 time under 26 U.S.C. 3304(a) an unemployment compensation law submitted to

1 him by the Virgin Islands.

2 * Sec. 31. Secs. 1, 2, 4 - 10, 15, 16, and 18 - 27 take effect on
3 January 1, 1978.

4 * Sec. 32. Secs. 5, 6, 16, 18, 19, 25, 26, and 27, and AS 23.20.525(a)(14)
5 as enacted by sec. 21, are suspended for the period in which an injunction
6 issued by a federal court of competent jurisdiction prohibiting the enforce-
7 ment of 26 U.S.C. 3304(a)(6) remains in effect.

8 * Sec. 33. Secs. 5, 6, 16, 18, 19, 25, 26, and 27, and AS 23.20.525(a)(14)
9 as enacted by sec. 21 are repealed.

10 * Sec. 34. Sec. 33 of this Act takes effect upon the condition and at
11 the time that:

12 (1) a decision of a federal court of competent jurisdiction,
13 which decision is not subject to appeal or for which the time in which to
14 appeal has run without an appeal having been taken, that the requirement of
15 26 U.S.C. 3304(a)(6) is unconstitutional become final; or

16 (2) Congressional repeal of 26 U.S.C. 3304(a)(6) takes effect in
17 accordance with law.

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