

Introduced: 2/4/81
Referred: Labor & Commerce and
Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 56

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the payment of wages."

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

8 * Section 1. AS 23.05.140(d) is amended to read:

9 (d) If an employer violates (b) of this section by failing to pay
10 within three working days of termination, the commissioner may assess a
11 penalty of [HE IS LIABLE TO THE EMPLOYEE FOR PAYMENT OF] the employee's
12 regular wage, salary or other compensation from the time of demand to
13 the time of payment, or for 90 working days, whichever is the lesser
14 amount. Before assessing a penalty under this subsection, the commis-
15 sioner shall consider the gravity of the violation, the good faith of
16 the employer, and the history of other similar violations by the em-
17 ployer.

18 * Sec. 2. AS 23.05.180 is amended to read:

19 Sec. 23.05.180. WAGES IN DISPUTE. (a) If the amount of wages
20 [DUE] is in dispute, the employer shall give written notice to the
21 employee of the amount of wages, or parts of them, which he concedes to
22 be due, and shall pay that amount, without condition, within the time
23 set by this chapter. The employee retains all remedies to which he
24 might otherwise be entitled, including those provided under this chap-
25 ter or AS 23.10, as to any balance claimed.

26 (b) The acceptance [ACCEPTANCE] by an employee of a payment
27 [MADE] under this section does not constitute a release of the balance
28 of his claim, and a release required by an employer as a condition to
29 payment is void.

1 * Sec. 3. AS 23.10.060 is amended to read:

2 Sec. 23.10.060. PAYMENT FOR OVERTIME. An [NO] employer who
3 employs employees engaged in commerce, or other business, or in the
4 production of goods or materials in the state [ALASKA] may not employ
5 an employee [NOT ACTING IN A SUPERVISORY CAPACITY, EITHER MALE OR
6 FEMALE,] for a work week which exceeds [LONGER THAN] 40 hours. An em-
7 ployer who employs an employee for more than 40 hours in a work week
8 shall pay [OR FOR MORE THAN 8 HOURS A DAY, EXCEPT THAT IF THE EMPLOYER
9 FINDS IT NECESSARY TO EMPLOY AN EMPLOYEE IN EXCESS OF 40 HOURS A WEEK
10 OR EIGHT HOURS A DAY,] compensation for the overtime at the rate of one
11 and one-half times the regular rate of pay. This [SHALL BE PAID, AND
12 THIS] provision is considered included in all contracts of employment.
13 This section does not apply [WITH RESPECT] to

14 (1) an employee employed by an employer employing less than
15 four employees in the regular course of business, as regular course of
16 business is defined by regulations by the commissioner;

17 (2) Repealed by sec. 33, ch. 127, SLA 1974.

18 (3) Repealed by sec. 1, ch. 243, SLA 1970, effective October
19 31, 1970.

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

24 (5) an employee of an employer engaged in small mining
25 operations where not more than 12 employees are employed, if the em-
26 ployee is employed not in excess of 12 hours a day or 56 hours a week
27 during a period or periods of not more than 14 workweeks in the aggre-
28 gate in a calendar year [DURING THE MINING SEASON, AS THE SEASON IS
29 DEFINED BY THE COMMISSIONER];

- 1 (6) Repealed by sec. 1, ch. 45, SLA 1972.
- 2 (7) an employee engaged in agriculture;
- 3 (8) an employee employed in connection with the publication
- 4 of a [WEEKLY, SEMIWEEKLY, OR DAILY] newspaper with a circulation of
- 5 less than 1,000;
- 6 (9) a switchboard operator employed in a public telephone
- 7 exchange which has fewer than 750 stations;
- 8 (10) an employee working as a taxicab driver of an employer
- 9 engaged in the business of operating taxicabs;
- 10 [(11) AN EMPLOYEE IN AN OTHERWISE EXEMPTED EMPLOYMENT OR
- 11 PROPRIETOR IN A RETAIL OR SERVICE ESTABLISHMENT ENGAGED IN HANDLING
- 12 TELEGRAPHIC, TELEPHONE, OR RADIO MESSAGES FOR THE PUBLIC UNDER AN
- 13 AGENCY OR CONTRACT ARRANGEMENT WITH A TELEGRAPH OR COMMUNICATIONS
- 14 COMPANY WHERE THE TELEGRAPH MESSAGE OR COMMUNICATIONS REVENUE OF THE
- 15 AGENCY DOES NOT EXCEED \$500 A MONTH;]
- 16 (12) an employee employed as a seaman;
- 17 (13) an employee employed in planting or tending trees,
- 18 cruising, or surveying, or bucking, or felling timber, or in preparing
- 19 or transporting logs or other forestry products to the mill, processing
- 20 plant, railroad, or other transportation terminal, if the number of
- 21 employees employed by the employer in the forestry or lumbering opera-
- 22 tions does not exceed 12;
- 23 (14) an individual employed as an outside buyer of poultry,
- 24 eggs, cream, or milk in their raw or natural state;
- 25 (15) casual employees as may be liberally defined by regula-
- 26 tions of the commissioner; and
- 27 (16) an employee of a nonprofit hospital. [;]
- 28 [(17) WORK PERFORMED BY AN EMPLOYEE UNDER A FLEXIBLE WORK HOUR
- 29 PLAN IF THE PLAN IS INCLUDED AS PART OF A COLLECTIVE BARGAINING

1 AGREEMENT;

2 (18) WORK PERFORMED BY AN EMPLOYEE UNDER A VOLUNTARY FLEXIBLE
3 WORK HOUR PLAN IF

4 (A) THE EMPLOYEE AND THE EMPLOYER HAVE SIGNED A WRITTEN
5 AGREEMENT AND THE WRITTEN AGREEMENT HAS BEEN FILED WITH THE DEPART-
6 MENT OF LABOR; AND

7 (B) THE DEPARTMENT OF LABOR HAS ISSUED A CERTIFICATE
8 APPROVING THE PLAN WHICH STATES THE WORK IS FOR 40 HOURS A WEEK
9 AND NOT MORE THAN 10 HOURS A DAY; FOR WORK OVER 40 HOURS A WEEK OR
10 10 HOURS A DAY UNDER A FLEXIBLE WORK HOUR PLAN NOT INCLUDED AS
11 PART OF A COLLECTIVE BARGAINING AGREEMENT, COMPENSATION AT THE
12 RATE OF ONE AND ONE-HALF TIMES THE REGULAR RATE OF PAY SHALL BE
13 PAID FOR THE OVERTIME.]

14 * Sec. 4. AS 23.10.145 is amended to read:

15 Sec. 23.10.145. DEFINITIONS. Terms used in AS 23.10.050 -- 23.-
16 10.150 shall be defined, if not defined in AS 23 or in regulations
17 adopted under that title [WHERE APPLICABLE], as they are defined in the
18 federal Fair Labor Standards Act of 1938, as amended, or the regulations
19 adopted under it.
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