

Introduced: 4/23/85
Referred: Labor & Commerce
and Finance

1 IN THE SENATE

BY ZHAROFF BY REQUEST

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SPONSOR SUBSTITUTE FOR SENATE BILL NO. 286

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to payment of overtime and a good
faith exception to damages for unpaid overtime,
unpaid minimum wages, and liquidated damages; and
providing for an effective date."

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

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* Section 1. AS 23.10.060 is amended by adding a new paragraph to read:

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(19) work performed under a pay plan approved under AS 23.-

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10.062.

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

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Sec. 23.10.062. IRREGULAR AND FLEXIBLE WORK HOUR PLANS. (a)

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The department may approve a pay plan that provides fixed rates of pay
for irregular or flexible work hours as provided in this section. The
department shall review a proposed plan or proposed changes to a plan
already approved. A plan or change to an approved plan is not valid
until it receives written approval from the department.

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(b) The department may approve a plan if the plan is entered
into under an agreement as part of a collective bargaining contract or
in accordance with (c) of this section and if the plan is

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(1) a flexible work hour plan that provides for a 40-hour
work week and not more than a 10-hour work day; and that requires the
employer to pay compensation at a rate of one and one-half times the
regular rate of pay for work over 40 hours per week or 10 hours per
day;

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(2) an irregular work hour plan that provides a fixed

1 weekly wage for irregular weekly hours not to exceed 60 hours in a
2 work week and that requires the employer to pay compensation at a rate
3 of one and one-half times the regular rate of pay for work over 60
4 hours per week; the department may not approve a plan under this
5 paragraph unless it finds that

6 (A) the nature of the employer's business and the
7 duties of the employee require irregular hours of work that will
8 average 40 hours per week over an extended length of employment;
9 and

10 (B) neither the employer nor the employee is able to
11 control or anticipate with certainty the number of hours of work;

12 (3) a flexible work week plan that provides a fixed weekly
13 wage for no more than 60 hours of work per work week and that requires
14 the employer to pay compensation at a rate of one and one-half times
15 the effective hourly rate of pay for hours in excess of 60 hours per
16 week; the effective hourly rate of pay is determined by dividing the
17 fixed weekly wage by the actual hours worked in a work week, not
18 exceeding 60 hours; hours worked in excess of 60 hours per work week
19 are paid at one and one-half times the effective hourly rate of pay
20 for a 60-hour work week at the fixed weekly wage; the department may
21 not approve a plan under this paragraph unless it finds that the
22 nature of the employer's business and the duties of the employee
23 require irregular hours of work that will average 40 hours per week
24 over an extended length of employment.

25 (c) An employer and an employee shall enter a signed written
26 agreement at the time of hiring establishing the day and place of
27 payment, and the rate of pay for a work plan under this section.
28 These items may not be changed unless the change is agreed to no later
29 than the pay day before the time of change.

1 * Sec. 3. AS 23.10 is amended by adding a new section to read:

2 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
3 unpaid minimum wages, unpaid overtime compensation, or liquidated
4 damages under AS 23.10.050 - 23.10.150, if the employer shows to the
5 satisfaction of the court that the act or omission giving rise to the
6 action was in good faith and that the employer had reasonable grounds
7 for the act or omission, the court may refuse to award liquidated
8 damages or may award an amount less than the amount established in
9 AS 23.10.110.

10 * Sec. 4. This Act applies to payment of wages for work performed after
11 the effective date of this Act.

12 * Sec. 5. AS 23.10.060(17) and 23.10.060(18) are repealed.

13 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).