

Introduced: 2/13/87  
Referred: Labor and Commerce

5-0629A

1 IN THE SENATE

BY HENSLEY AND BINKLEY

2

SENATE BILL NO. 126

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

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

12 (19) work performed under a pay plan approved under AS 23.-  
13 10.062.

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

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

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

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

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

29 (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 40 but less  
16 than 60 hours per week; the effective hourly rate of pay is determined  
17 by dividing the fixed weekly wage by the actual hours worked in a work  
18 week, not exceeding 60 hours; hours worked in excess of 60 hours per  
19 work week are paid at one and one-half times the effective hourly rate  
20 of pay for a 60-hour work week at the fixed weekly wage; the depart-  
21 ment may not approve a plan under this paragraph unless it finds that  
22 the 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 under  
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 under AS 01.10.070(c).