

Offered: 4/9/87
Referred: Rules

5-0629B

Original sponsors: Hensley and Binkley

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 126 (L&C)

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

22 (1) is entered into under an agreement as part of a collec-
23 tive bargaining contract or in accordance with (c) of this section;
24 and

25 (2) is a flexible work hour plan that provides for a
26 40-hour work week and not more than a 10-hour work day and that re-
27 quires the employer to pay compensation at a rate of one and one-half
28 times the regular rate of pay for work over 40 hours per week or 10
29 hours per day.

1 (c) An employer and an employee shall enter a signed written
2 agreement establishing the day and place of payment, and the rate of
3 pay for a work plan under this section. These items may not be chang-
4 ed unless the change is agreed to on or before the payday before the
5 time of change.

6 * Sec. 3. AS 23.10.110(a) is amended to read:

7 (a) An employer who violates a provision of AS 23.10.060 or
8 23.10.065 is liable to an employee affected in the amount of unpaid
9 minimum wages, or unpaid overtime compensation, as the case may be,
10 and in an additional equal amount as liquidated damages. An employer
11 who raises as a defense that the failure to pay was made in good faith
12 and that the employer had reasonable grounds for the act or omission
13 under AS 23.10.112 shall pay the employee the amount of unpaid minimum
14 wages and unpaid overtime compensation as determined by the depart-
15 ment. The employer may contest the department's determination if an
16 action is brought under (b) of this section and is not required to pay
17 liquidated damages unless ordered to do so by a court of competent
18 jurisdiction under (b) of this section.

19 * Sec. 4. AS 23.10 is amended by adding a new section to read:

20 Sec. 23.10.112. GOOD FAITH EXCEPTION. In an action to recover
21 unpaid minimum wages, unpaid overtime compensation, or liquidated
22 damages under AS 23.10.050 - 23.10.150, if the employer shows to the
23 satisfaction of the court that the act or omission giving rise to the
24 action was in good faith and that the employer had reasonable grounds
25 for the act or omission, the court may refuse to award liquidated
26 damages or may award an amount less than the amount established under
27 AS 23.10.110.

28 * Sec. 5. This Act applies to payment of wages for work performed on or
29 after the effective date of this Act.

- 1 *** Sec. 6. AS 23.10.060(18) is repealed.**
- 2 *** Sec. 7. This Act takes effect immediately under AS 01.10.070(c).**