

BY THE LABOR & COMMERCE COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 430

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act requiring that overtime wages at twice the  
7 regular rate of pay be paid for certain work days and  
8 work weeks; requiring that overtime wages at one and  
9 one-half times the regular rate of pay be paid for  
10 certain work following the fifth consecutive day of  
11 work; defining 'day' and 'week' for overtime wages;  
12 and relating to food and housing for construction  
13 workers at remote construction sites."

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

15 \* Section 1. AS 23.10.060 is amended to read:

16 Sec. 23.10.060. PAYMENT FOR OVERTIME. (a) Except as provided  
17 in (b) and (c) of this section, an [AN] employer who employs employees  
18 engaged in commerce [,] or other business, or in the production of  
19 goods or materials in the state [ALASKA] may not employ an employee  
20 [NOT ACTING IN A SUPERVISORY CAPACITY, EITHER MALE OR FEMALE,] for a  
21 workweek longer than 40 hours or for more than eight hours a day.  
22 This section does not apply to the employment of a person acting in a  
23 supervisory capacity.

24 (b) If an [, EXCEPT THAT IF THE] employer finds it necessary to  
25 employ an employee in excess of 40 hours but not more than 60 hours a  
26 week or more than eight but not more than 10 hours a day, compensation  
27 for this [THE] overtime at the rate of one and one-half times the  
28 regular rate of pay shall be paid. If an employer employs an employee  
29 more than 60 hours a week or more than 10 hours a day, the employer

1 shall pay compensation for this overtime at the rate of two times the  
2 regular rate of pay.

3 (c) An employer who employs an employee for more than five  
4 consecutive days without a day off shall pay compensation to the  
5 employee for the employee's hours of work on the consecutive days that  
6 follow the fifth consecutive day at the rate required by (b) of this  
7 section for those hours eligible for overtime payment under that  
8 subsection and at the rate of one and one-half times the regular rate  
9 of compensation for the regular hours of employment on those consecu-  
10 tive days. This subsection applies regardless of the number of weeks  
11 in which the consecutive days worked by the employee occur.

12 (d) This section [, AND THIS PROVISION] is considered included  
13 in all contracts of employment.

14 (e) This section does not apply with respect to

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

18 (2) [REPEALED

19 (3) REPEALED

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 (3) [(5)] an employee of an employer engaged in small  
25 mining operations where not more than 12 employees are employed, if  
26 the employee is employed not in excess of 12 hours a day or 56 hours a  
27 week during a period or periods of not more than 14 workweeks in the  
28 aggregate in a calendar year during the mining season, as the season  
29 is defined by the commissioner;

- 1                   (4) [(6) REPEALED  
2                   (7)] an employee engaged in agriculture;  
3                   (5) [(8)] an employee employed in connection with the  
4 publication of a weekly, semiweekly, or daily newspaper with a circu-  
5 lation of less than 1,000;  
6                   (6) [(9)] a switchboard operator employed in a public  
7 telephone exchange that [WHICH] has fewer than 750 stations;  
8                   (7) [(10)] an employee of an employer engaged in the busi-  
9 ness of operating taxicabs;  
10                  (8) [(11)] an employee in an otherwise exempted employment  
11 or 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                  (9) [(12)] an employee employed as a seaman;  
17                  (10) [(13)] an employee employed in planting or tending  
18 trees, cruising, or surveying, or bucking, or felling timber, or in  
19 preparing or transporting logs or other forestry products to the mill,  
20 processing plant, railroad, or other transportation terminal, if the  
21 number of employees employed by the employer in the forestry or lum-  
22 bering operations does not exceed 12;  
23                  (11) [(14)] an individual employed as an outside buyer of  
24 poultry, eggs, cream, or milk in their raw or natural state;  
25                  (12) [(15)] casual employees as may be liberally defined by  
26 regulations of the commissioner;  
27                  (13) [(16)] an employee of a hospital whose employment in-  
28 cludes the provision of medical services;  
29                  (14) [(17)] work performed by an employee under a flexible

1 work hour plan if the plan is included as part of a collective bar-  
2 gaining agreement;

3 (15) [(18)] work performed by an employee under a voluntary  
4 flexible work hour plan if

5 (A) the employee and the employer have signed a writ-  
6 ten agreement and the written agreement has been filed with the  
7 department; and

8 (B) the department has issued a certificate approving  
9 the plan which states the work is for 40 hours a week and not  
10 more than 10 hours a day; for work over 40 hours a week or 10  
11 hours a day under a flexible work hour plan not included as part  
12 of a collective bargaining agreement, compensation at the rate of  
13 one and one-half times the regular rate of pay shall be paid for  
14 the overtime.

15 (f) In this section,

16 (1) "day" means 24 consecutive hours;

17 (2) "week" means the period of time from a Sunday at 12:01  
18 in the morning to the following Saturday at 12:00 midnight.

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

20 Sec. 23.10.440. FOOD AND HOUSING AT REMOTE CONSTRUCTION SITES.

21 (a) Except as provided in (b) of this section, an employer or con-  
22 tractor shall provide food and housing to an employee working at a  
23 remote construction site. The housing must meet safety and health  
24 standards for housing set out in the Standards for Occupational and  
25 Industrial Structures adopted by the department. The employer or  
26 contractor may not consider the cost of the food and housing in set-  
27 ting wages for the employee or in meeting wage requirements under  
28 AS 23.10.065 or AS 36.05.

29 (b) An employer or contractor who provides adequate

1 transportation to employees is exempt from the requirement to provide  
2 food and housing under (a) of this section. Transportation is ade-  
3 quate under this section if it

4 (1) is available daily at reasonable hours to and from the  
5 remote construction site to a location that provides access to ade-  
6 quate commercially-available housing;

7 (2) takes no more than 30 minutes to transport the employee  
8 from the departure point to the worksite; and

9 (3) meets applicable transportation safety standards.

10 (c) The requirements of this section are considered a part of  
11 every contract for hire for a construction project in the state. The  
12 advertised specifications for a construction contract that is partly  
13 or wholly funded by state money shall contain a provision stating the  
14 requirement for providing food and housing at remote construction  
15 sites.

16 (d) An employee may waive the employee's right to food and  
17 housing under this section. An employer may not require an employee  
18 to live in housing provided under this section.

19 (e) The department shall implement this section by regulation.

20 (f) In this section

21 (1) "construction" means the on-site field surveying,  
22 erection, rehabilitation, alteration, extension, or repair, including  
23 painting or redecorating, of buildings, highways, or other improve-  
24 ments to real property;

25 (2) "remote" means a work site that is either more than 50  
26 road miles or inaccessible by two-wheel-drive vehicles from a place  
27 that has adequate, commercially-available food and housing that meet  
28 the standards set out in (a) of this section.