

Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 430 (L&C)  
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 one and  
7 one-half times the regular rate of pay be paid for  
8 certain work following the fifth consecutive day of  
9 work; exempting certain line haul truck drivers from  
10 the requirement for overtime wages; defining 'day'  
11 and 'week' for overtime wages; removing certain  
12 employees on public works projects from an exemption  
13 from overtime wage requirements; and relating to food  
14 and housing for certain workers on public works  
15 projects at remote sites."

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

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

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

26 (b) If an [, EXCEPT THAT IF THE] employer finds it necessary to  
27 employ an employee in excess of 40 hours a week or more than eight  
28 hours a day, compensation for the overtime at the rate of one and  
29 one-half times the regular rate of pay shall be paid.

1           (c) An employer who employs an employee for at least 40 hours of  
2           work at the regular rate of pay in more than five consecutive days  
3           without a day off shall pay compensation to the employee for the  
4           employee's hours of work on the sixth and seventh consecutive days at  
5           the rate of one and one-half times the regular rate of compensation.  
6           This subsection applies regardless of the number of weeks in which the  
7           consecutive days worked by the employee occur.

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

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

11                   (1) an employee employed by an employer employing less than  
12                   four employees in the regular course of business, as "regular course  
13                   of business" is defined by regulations of the commissioner; however,  
14                   this exemption does not apply to an employee who is employed on a  
15                   public works project for any day on which the employee performs work  
16                   on the project;

17                           (2) [REPEALED

18                           (3) REPEALED

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

23                           (3) [(5)] an employee of an employer engaged in small  
24                   mining operations where not more than 12 employees are employed, if  
25                   the employee is employed not in excess of 12 hours a day or 56 hours a  
26                   week during a period or periods of not more than 14 workweeks in the  
27                   aggregate in a calendar year during the mining season, as the season  
28                   is defined by the commissioner;

29                           (4) [(6) REPEALED

- 1           (7)] an employee engaged in agriculture;
- 2           (5) [(8)] an employee employed in connection with the  
3 publication of a weekly, semiweekly, or daily newspaper with a circu-  
4 lation of less than 1,000;
- 5           (6) [(9)] a switchboard operator employed in a public  
6 telephone exchange that [WHICH] has fewer than 750 stations;
- 7           (7) [(10)] an employee of an employer engaged in the busi-  
8 ness of operating taxicabs;
- 9           (8) [(11)] an employee in an otherwise exempted employment  
10 or proprietor in a retail or service establishment engaged in handling  
11 telegraphic, telephone, or radio messages for the public under an  
12 agency or contract arrangement with a telegraph or communications  
13 company where the telegraph message or communications revenue of the  
14 agency does not exceed \$500 a month;
- 15           (9) [(12)] an employee employed as a seaman;
- 16           (10) [(13)] an employee employed in planting or tending  
17 trees, cruising, or surveying, or bucking, or felling timber, or in  
18 preparing or transporting logs or other forestry products to the mill,  
19 processing plant, railroad, or other transportation terminal, if the  
20 number of employees employed by the employer in the forestry or lum-  
21 bering operations does not exceed 12;
- 22           (11) [(14)] an individual employed as an outside buyer of  
23 poultry, eggs, cream, or milk in their raw or natural state;
- 24           (12) [(15)] casual employees as may be liberally defined by  
25 regulations of the commissioner;
- 26           (13) [(16)] an employee of a hospital whose employment in-  
27 cludes the provision of medical services;
- 28           (14) [(17)] work performed by an employee under a flexible  
29 work hour plan if the plan is included as part of a collective

1 bargaining agreement;

2 (15) ~~[(18)]~~ work performed by an employee under a voluntary  
3 flexible work hour plan if

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

7 (B) the department has issued a certificate approving  
8 the plan which states the work is for 40 hours a week and not  
9 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 part  
11 of a collective bargaining agreement, compensation at the rate of  
12 one and one-half times the regular rate of pay shall be paid for  
13 the overtime;

14 (16) an individual employed as a line haul truck driver for  
15 a trip that exceeds 100 road miles one way if the compensation system  
16 under which the truck driver is paid includes overtime pay for work in  
17 excess of 40 hours a week and for more than eight hours a day and the  
18 compensation system requires a rate of pay comparable to the rate of  
19 pay required by this section.

20 (f) In this section,

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

22 (2) "public works" has the meaning given in AS 36.95.010;

23 (3) "week" means the period of time from a Sunday at 12:01

24 in the morning to the following Saturday at 12:00 midnight.

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

26 Sec. 23.10.440. FOOD AND HOUSING AT REMOTE SITES. (a) Except  
27 as provided in (b) of this section, an employer shall provide food and  
28 housing to an employee working at a public works project remote site.  
29 The housing must meet safety and health standards for housing set out

1 in the Standards for Occupational and Industrial Structures adopted by  
2 the department. The employer may not consider the cost of the food  
3 and housing in setting wages for the employee or in meeting wage  
4 requirements under AS 23.10.065 or AS 36.05.

5 (b) An employer who provides adequate transportation to employ-  
6 ees is exempt from the requirement to provide food and housing under  
7 (a) of this section. Transportation is adequate under this section if  
8 it

9 (1) is available daily at reasonable hours to and from the  
10 remote site to a location that provides access to adequate commer-  
11 cially-available housing;

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

14 (3) meets applicable transportation safety standards.

15 (c) The requirements of this section are considered a part of  
16 every contract for hire for a public works project in the state. The  
17 advertised specifications for the public works project shall contain a  
18 provision stating the requirement for providing food and housing at  
19 remote sites.

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

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

24 (f) In this section

25 (1) "employee" and "employer" have the meanings given in  
26 AS 23.10.430;

27 (2) "public works" has the meaning given in AS 36.95.010;

28 (3) "remote" means a work site that is either more than 50  
29 road miles or inaccessible by two-wheel-drive vehicles from a place

- 1 that has adequate, commercially-available food and housing that meet
- 2 the standards set out in (a) of this section.