

HOUSE BILL NO. 459

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 2/9/94

Referred: Labor & Commerce, State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to liquidated damages and attorney fees for minimum wage and
2 overtime compensation claims."

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

4 * Section 1. AS 23.10.110(a) is amended to read:

5 (a) An employer who violates a provision of AS 23.10.060 or 23.10.065 is
6 liable to an employee affected in the amount of unpaid minimum wages, or unpaid
7 overtime compensation, as the case may be, and, except as provided in (d) - (f) of
8 this section, in an additional equal amount as liquidated damages.

9 * Sec. 2. AS 23.10.110(c) is amended to read:

10 (c) The court in an action brought under this section shall, in addition to a
11 judgment awarded to the prevailing party [PLAINTIFF], allow costs of the action and
12 reasonable attorney fees to be determined according to court rule. When the
13 commissioner is the prevailing party in an action brought under this section, the
14 commissioner shall remit the attorney fees [PAID BY THE DEFENDANT. THE

1 **ATTORNEY FEES IN THE CASE OF ACTIONS BROUGHT UNDER THIS**
2 **SECTION BY THE COMMISSIONER SHALL BE REMITTED BY THE**
3 **COMMISSIONER]** to the Department of Revenue. The commissioner may not be
4 required to pay the filing fee or other costs. The commissioner in case of suit has
5 power to join various claimants against the same employer in one cause of action.

6 * **Sec. 3. AS 23.10.110 is amended by adding new subsections to read:**

7 **(d) In an action under (a) of this section to recover unpaid minimum wages,**
8 **unpaid overtime compensation, or liquidated damages, if the employer shows to the**
9 **satisfaction of the court that the act or omission giving rise to the action was made in**
10 **good faith and that the employer had reasonable grounds for believing that the act or**
11 **omission was not in violation of AS 23.10.050 - 23.10.150, the court may decline to**
12 **award liquidated damages or may award an amount of liquidated damages less than**
13 **the amount set out in (a) of this section. This subsection does not apply to an action**
14 **brought under this section by the commissioner.**

15 **(e) The commissioner may supervise the payment of the unpaid minimum**
16 **wages or unpaid overtime compensation owing to an employee under AS 23.10.060**
17 **or 23.10.065. Payment in full in accordance with an agreement by an employee to**
18 **settle a claim for unpaid minimum wages, unpaid overtime compensation, or liquidated**
19 **damages constitutes a waiver of any right the employee may have under (a) of this**
20 **section to unpaid minimum wages, unpaid overtime compensation, or liquidated**
21 **damages.**

22 **(f) An employee is not entitled to liquidated damages under (a) of this section**
23 **if, as part of a written settlement agreement with the employer, the employee expressly**
24 **waives the employee's right to receive liquidated damages.**

25 * **Sec. 4. APPLICATION OF ACT. (a) AS 23.10.110(e), added by sec. 3 of this Act,**
26 **applies to agreements entered into on or after the effective date of this Act.**

27 **(b) AS 23.10.110(f), added by sec. 3 of this Act, applies to written agreements entered**
28 **into on or after the effective date of this Act.**

29 **(c) Except as provided in (a) and (b) of this section, to the extent constitutionally**
30 **permitted, this Act applies to actions commenced before, on, or after the effective date of this**
31 **Act that have not resulted in the entry of a final judgment before the effective date of this Act.**