

S B

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TO ADOPT CS SB 457 (L&C)

3 YES BF, TK, DE

2 NO MS, RU

5-1779L ✓
Cramer
3/4/88

Original sponsors: Fanning and Faiks

TO MOVE BF, TK, DE - YES
RU, MS NO

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 457 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act exempting certain persons employed in con-
7 nection with game or aquatic forms of life or em-
8 ployed as commissioned automotive technicians from
9 the Alaska Wage and Hour Act; and providing for an
10 effective date."

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

12 * Section 1. AS 23.10.055 is amended to read:

13 Sec. 23.10.055. EXEMPTIONS. The provisions of AS 23.10.050 -
14 23.10.150 do not apply to

15 (1) an individual employed in agriculture, which includes
16 farming in all its branches and, among other things, includes the
17 cultivation and tillage of the soil, dairying, the production, cul-
18 tivation, growing, and harvesting of any agricultural or horticultural
19 commodities, the raising of livestock, bees, fur-bearing animals, or
20 poultry, and any practices, including forestry and lumbering opera-
21 tions, performed by a farmer or on a farm as an incident to or in
22 conjunction with the farming operations, including preparation for
23 market, delivery to storage or to market or to carriers for transpor-
24 tation to market;

25 (2) an individual employed in the catching, trapping,
26 cultivating or farming, netting, pursuing, or taking of any kind of
27 game, fish, shellfish, or other aquatic forms of animal and vegetable
28 life;

29 (3) an individual employed in the hand picking of shrimp;

1 (4) an individual employed in domestic service, including a
2 baby-sitter, in or about a private home;

3 (5) an individual employed by the United States or by the
4 state or political subdivision of the state including prisoners not on
5 furlough detained or confined in prison facilities;

6 (6) an individual engaged in the activities of a nonprofit
7 religious, charitable, cemetery or educational organization where the
8 employer-employee relationship does not, in fact, exist, and where
9 services rendered to the organization are on a voluntary basis;

10 (7) an employee engaged in the delivery of newspapers to
11 the consumer;

12 (8) an individual employed solely as a watchman or caretak-
13 er of a plant or property that is not in productive use for a period
14 of four months or more;

15 (9) an individual employed in a bona fide executive, admin-
16 istrative or professional capacity or in the capacity of an outside
17 salesman or a salesman who is employed on a straight commission basis;

18 (10) an individual employed in the search for placer or
19 hard rock minerals;

20 (11) an individual under 18 years of age employed on a
21 part-time basis not more than 30 hours in a week; [OR]

22 (12) employment by a nonprofit educational or child care
23 facility to serve as a parent of children while the children are in
24 residence at the facility if the employment requires residence at the
25 facility and is compensated on a cash basis exclusive of room and
26 board at an annual rate of not less than

27 (A) \$10,000 for an unmarried person; or

28 (B) \$15,000 for a married couple; or

29 (13) an individual employed as a commissioned automotive

1 technician.

2 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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COMMISSIONED AUTOMOTIVE TECHNICIANS

Commissioned automobile salesmen are currently exempt from the wage and hour standards.

Commissioned automobile technicians should likewise be exempt for the following reasons:

1. Commissioned automotive technicians are currently exempt under federal regulations. (*Federal Wage & Hour Law 29 USC 204*)
2. Commissioned automotive technicians are generally paid for each "flat rate" hour they produce. The "flat rate" times are published in either factory time standard manuals (*for warranty repairs*) or in other publications (*such as Chilton's or Motor's flat rate time standard manuals*). The better skilled and more accurate the technician the more "flat rate" hours he produces and therefore the size of his paycheck increases.
3. Retail consumers and manufacturers are likewise billed by dealerships based upon the "flat rate" time as published in these manuals. Thereby, the retail consumer (*retail repair*) or the manufacturer (*warranty repair*) are guaranteed a set price for any particular repair.

For instance, a repair listed in a flat rate manual which allows 2.0 hours will be billed to either the retail consumer or the manufacturer for 2.0 hours times the dealership's normal hourly rate.

An apprentice technician may take 3.0 hours to complete the repair. However, the apprentice is paid 2.0 hours wages and the retail consumer is only billed for 2.0 hours. An experienced journeyman technician may complete the same repair in 1.6 hours. However, the journeyman is still paid 2.0 hours wages and the consumer is billed for 2.0 hours. Across the Nation, this is the standard method of charging both consumers and manufacturers as well as for calculating technician payroll. It protects all the parties involved by insuring uniform standards.

2.

4. In Alaska, the seasons come into play much more than in other parts of the country as regards automobile repairs. Cars and Trucks break down more often in cold weather. A cold snap may pile up automobile repairs for two or more weeks, thereby causing extreme inconvenience to the owner.

5. Because manufacturers and retail consumers are either unwilling or unable to pay 1.5 times the hourly rate in order to overcome a backlog caused by a cold snap, it is virtually impossible for an automobile repair shop to schedule repairs for more than eight hours a day.

Qualified automotive technicians are harder and harder to come by and the seasonable and unpredictable demands cannot be met by looking to the readily available labor market. Today's demand for factory trained skilled technicians is nation wide. Likewise, apprentice's are in equal short supply and take more than four (4) years to attain journeyman status. In fact, nearly every automobile dealership in the State of Alaska is actively recruiting promising apprentices or qualified automobile technicians.

6. Most commissioned automotive technicians would be willing to put in an extra hour or two on a week day or even work a Saturday from time to time in order to help eliminate a back-log. However, under the current regulations, it is impossible to accomidate this desire for the reasons stated in paragraph 5, above.

The automobile dealerships in the State of Alaska realize the inconvenience the consumer experiences when he or she is without his or her car or truck. More and more new vehicles carry factory warranties of 5, 6 or 7 years and manufacturers will not pay overtime for warranty work. Dealerships cannot afford to absorb the difference. Therefore, consumer inconvenience will undoubtedly increase unless the State of Alaska adopts the Federal exemption currently allowed commissioned automotive technicians.

7. Commisioned automotive technicians generally support this exemption. For example, a technician may be within 15 minutes

to an hour of completing a repair when the eight hour day comes to an end. Having to cease what he is doing, put away his tools, put away replacement parts and then, the next morning, get his tools back out, get his replacement parts back out, sometimes move the vehicle back into the work area and then start over where he left off the day before, causes his effective time to decrease. In other words, the current regulations cost the technician wages.

Proposed amendments to SB 457:

1) P1 L6-7 - bill title; reword to read "An Act exempting persons employed in the pursuing or taking of game, fish, shellfish, or other aquatic forms of animal and vegetable life, and persons employed as commissioned automotive technicians from the Alaska Wage and Hour Act; and providing for an effective date."

2)P2 L26 add a new line; (13) an individual employed as a commissioned automotive technician;

3)P2 L28; add a new line - "This Act takes effect immediately under AS 01.10.070(c)."

1 IN THE SENATE

BY FANNING AND FAIKS

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SENATE BILL NO. 457

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FIFTEENTH LEGISLATURE - SECOND SESSION

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4 religious, charitable, cemetery or educational organization where the
5 employer-employee relationship does not, in fact, exist, and where
6 services rendered to the organization are on a voluntary basis;

7 (7) an employee engaged in the delivery of newspapers to
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10 er of a plant or property that is not in productive use for a period
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21 residence at the facility if the employment requires residence at the
22 facility and is compensated on a cash basis exclusive of room and
23 board at an annual rate of not less than

24 (A) \$10,000 for an unmarried person; or

25 (B) \$15,000 for a married couple.

SENATE BILL 457
By Fanning and Faiks

For the Senate Labor and Commerce Committee:
March 2, 1988

Senate Bill 457 adds new language to the Alaska Wage and Hour Act. The new language occurs in Sec. 24.10.055 in paragraph (2), and allows for the exemption of those who operate hunting and fishing lodges, guiding services or other similar businesses engaged in the pursuit of fish and game. Businesses associated with this kind of activity experience very short working seasons and must take advantage of the full day. Lodge operators and guides employ a small number of support staff and hiring is worked out on an individual basis. Considering the brief work season, staff must often work extended hours to accommodate the needs of the hunters. Employees at hunting and fishing lodges are salaried and provided with room and board. These employees usually go to work because they want a rugged, Alaskan outdoor experience.

The list of exemptions from the Alaska Wage and Hour Act include many seasonal businesses such as fishing, mining, trapping, farming, logging and also includes a number of full-time, year-round businesses. Senate Bill 457 addresses a legitimate concern for those businesses in the guide industry. Many people in the guide industry as well as legislators and persons from the Department of Labor had already assumed that guide businesses were already exempt from the Alaska Wage and Hour Act. We hope that the Senate Labor and Commerce Committee recognizes this concern and passes this legislation with unanimous consent.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION : SB 457
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act exempting certain
persons from the Alaska Wage and Hour Act." BRU: Labor Standards & Safety
 Sponsor: Fanning & Faiks Components: Wage & Hour
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart *Stuart* Phone: 264-2452
 Division: Labor Standards & Safety Date: 2/29/88

Approved by Commissioner: Jim Sam *Jim Sam* Date: 2/29/88
 Agency: Department of Labor

Distribution (by preparer) :
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TIM KELLY

SB 457 — ROBBIE GUNTER

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