

S B

151

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/17/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035
2/3

DATE TURNED INTO OFFICE 2/27/89

Mr. President:

L&C

Committee considered SB 151

exempting certain persons employed as commissioned automotive technician
from the Alaska Wage and ~~House~~ Act; efd
Hour

and recommended:

replace with CS SB 151 (L+C) same title
 new title

attached amendment(s) and

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

[Signature]

OTHER RECOMMENDATIONS

Patricia Boyley no rec.

[Signature]
Chairman signature and recommendation

Committee backup attached

Original sponsors: Frank and Fahrenkamp

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 151 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act exempting certain persons employed in repair-
7 ing automobiles from the overtime provisions of the
8 Alaska Wage and Hour Act; and providing for an effec-
9 tive date."

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

11 * Section 1. AS 23.10.060 is amended to read:

12 Sec. 23.10.060. PAYMENT FOR OVERTIME. An employer who employs
13 employees engaged in commerce, or other business, or in the production
14 of goods or materials in the state [ALASKA] may not employ an employee
15 not acting in a supervisory capacity, either male or female, for a
16 workweek longer than 40 hours or for more than eight hours a day,
17 except that if the employer finds it necessary to employ an employee
18 in excess of 40 hours a week or eight hours a day, compensation for
19 the overtime at the rate of one and one-half times the regular rate of
20 pay shall be paid, and this provision is considered included in all
21 contracts of employment. This section does not apply with respect to

22 (1) an employee employed by an employer employing less than
23 four employees in the regular course of business, as regular course of
24 business is defined by regulations of the commissioner;

25 (2) [REPEALED,

26 (3) REPEALED,

27 (4)] an employee employed in handling, packing, storing,
28 pasteurizing, drying, preparing in their raw or natural state, or
29 canning agricultural or horticultural commodities for market, or in

1 making cheese or butter or other dairy products;

2 (3) [(5)] an employee of an employer engaged in small
3 mining operations where not more than 12 employees are employed, if
4 the employee is employed not in excess of 12 hours a day or 56 hours a
5 week during a period or periods of not more than 14 workweeks in the
6 aggregate in a calendar year during the mining season, as the season
7 is defined by the commissioner;

8 (4) [(6)] REPEALED,

9 (7) [(7)] an employee engaged in agriculture;

10 (5) [(8)] an employee employed in connection with the
11 publication of a weekly, semiweekly, or daily newspaper with a circu-
12 lation of less than 1,000;

13 (6) [(9)] a switchboard operator employed in a public
14 telephone exchange which has fewer than 750 stations;

15 (7) [(10)] an employee of an employer engaged in the busi-
16 ness of operating taxicabs;

17 (8) [(11)] an employee in an otherwise exempted employment
18 or proprietor in a retail or service establishment engaged in handling
19 telegraphic, telephone, or radio messages for the public under an
20 agency or contract arrangement with a telegraph or communications
21 company where the telegraph message or communications revenue of the
22 agency does not exceed \$500 a month;

23 (9) [(12)] an employee employed as a seaman;

24 (10) [(13)] an employee employed in planting or tending
25 trees, cruising, or surveying, or bucking, or felling timber, or in
26 preparing or transporting logs or other forestry products to the mill,
27 processing plant, railroad, or other transportation terminal, if the
28 number of employees employed by the employer in the forestry or lum-
29 bering operations does not exceed 12;

1 (11) [(14)] an individual employed as an outside buyer of
2 poultry, eggs, cream, or milk in their raw or natural state;

3 (12) [(15)] casual employees as may be liberally defined by
4 regulations of the commissioner;

5 (13) [(16)] an employee of a hospital whose employment
6 includes the provision of medical services;

7 (14) [(17)] work performed by an employee under a flexible
8 work hour plan if the plan is included as part of a collective bar-
9 gaining agreement;

10 (15) [(18)] work performed by an employee under a voluntary
11 flexible work hour plan if

12 (A) the employee and the employer have signed a writ-
13 ten agreement and the written agreement has been filed with the
14 department; and

15 (B) the department has issued a certificate approving
16 the plan which states the work is for 40 hours a week and not
17 more than 10 hours a day; for work over 40 hours a week or 10
18 hours a day under a flexible work hour plan not included as part
19 of a collective bargaining agreement, compensation at the rate of
20 one and one-half times the regular rate of pay shall be paid for
21 the overtime;

22 (16) an individual employed as an automobile mechanic or
23 repairer whose employer is an automobile dealership whose primary
24 business is selling automobiles and who works not more than 20 percent
25 of the time on a basis other than a commissioned or flat rate basis.

26 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).
27
28
29

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 151 (L&C)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act exempting certain persons...
 from the Alaska Wage & Hour Act;"
 Sponsor: Frank and Faurenkamp
 Requestor: Senate Labor & Commerce

Agency Affected: Labor
 BRU: Labor Standards & Safety
 Components: Wage & Hour

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

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, Director *TS*
 Division: Labor Standards & Safety

Phone: 264-2452
 Date: 2/24/89

Approved by Commissioner: Jim Sampson *JS*
 Agency: Department of Labor

Date: 2/24/89

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)



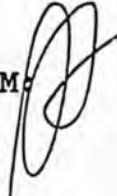
Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

TO: Senator Dick Eliason, Chairman
Senate Labor & Commerce Committee

FROM:  Senator Steve Frank

RE: Senate Bill 151 - "An Act exempting certain persons employed as commissioned automotive technicians from the Alaska Wage and Hour Act; and providing for an effective date."

DATE: February 7, 1989

I would like to request that you schedule SB 151 for a hearing in the Labor & Commerce Committee at your earliest convenience.

SB 151 would amend the Alaska Wage and Hour Act by exempting commissioned automotive technicians (mechanics) from the act.

The normal practice in Alaska and nation wide is to charge customers a "flat rate" for repair work regardless of the time required for the job. For example, a brake repair may be given a 1.5 hour flat rate. Thus, if a garage charges \$ 50. an hour for shop time, the cost to the customer for a brake repair would be \$ 75. (\$50 x 1.5) no matter how long the repair actually took. Similarly, if the mechanic were paid \$ 25. per hour, he or she would receive \$ 37.50 for the brake repair without respect to the job time. The result is that good mechanics will make more than \$ 25. an hour and others, such as apprentices will make less.

Overtime pay has generally been required in those areas where employees are hourly paid, not commissioned. In the case of auto technicians the overtime provision may be more of a hindrance than help because it discourages employers from giving mechanics the opportunity to work additional hours and consequently takes away the ability for those employees to increase their earnings. Moreover, the public would have faster turn around on repairs during peak demand periods such as the cold weather the state just experienced if we grant this exemption.

If passed, SB 151 would allow garage managers additional flexibility in their personnel scheduling, give the public better service and allow mechanics to earn greater incomes.

Thank you for your consideration.

Bill No Senate Bill 151

Date: February 21, 1989

Title: "An Act exempting certain persons employed as commissioned automotive technicians from the Alaska Wage and Hour Act; and providing for an effective date"

Contact: Eileen Plate
465-2700

Senate Bill 151 seeks to exempt commissioned automotive mechanics from Alaska's minimum wage and overtime laws.

The practical effect of this would be:

1. The minimum wage for these workers would be reduced from the state minimum of \$3.85 per hour to the federal minimum of \$3.35 per hour. (These workers are not exempt from the federal minimum wage requirements, and the proposed state exemption would not extend to the federal minimum wage requirements.)
2. Commissioned automotive mechanics who work for car dealerships would no longer be eligible for overtime pay. Presently these workers are entitled to overtime pay for hours worked in excess of eight per day and 40 per week.
3. Commissioned automotive mechanics who work for retail service establishments, such as gas stations and garages, would also be exempt from Alaska's overtime provisions. However, under the provisions of the Federal Fair Labor Standards Act, exemption from the federal overtime law would be applicable only if the commission payments to the workers are equal to or exceed one and one-half times the federal minimum wage ($\$3.35 \times 1 \frac{1}{2} = \5.02).

The Department of Labor is opposed to exempting these workers from Alaska's minimum wage and overtime laws. In addition to eroding the minimal protection presently extended to these workers, confusion will likely result with respect to the proper application of the exemptions. Many workers who would be affected by the exemptions perform duties other than mechanical work, i.e. sales or attendant work, particularly in the smaller establishments in the state. Such diversification of duties would make administration difficult for both employers and the Department of Labor.

The inclusion of the minimum wage exemption in this bill seems to suggest a recognition that, overall, the hourly wages of these workers are often low; and this seems inconsistent with the rationale one would expect would be put forth with respect to the overtime exemption.

See _____ is not in the interest of Alaska's workers; and the Department is opposed to it.

APPROVED:


Jim Sampson, Commissioner
Department of Labor

POSITION PAPER/Department of Labor



United Food & Commercial Workers Union Local 1496

MAIN OFFICE: 2501 H. JEBERRY, SUITE 200, ANCHORAGE, ALASKA 99503

(417) 276-2029

FAIRBANKS OFFICE: P.O. BOX 1340, FAIRBANKS, ALASKA 99707

(907) 456-0371

ROBERT K. FREIMUTH
President

JOSEPHINE STOLL
Secretary/Treasurer

February 24, 1989

P A X T R A N S M I T T A L M E M O

TO: R.K. Schick
DEPT: _____ FAX #: 465-3841
FROM: _____ PHONE _____
CO: _____ FAX #: _____
Post-It brand fax transmittal memo 7671

NO. OF
PAGES

Dick Eliason, Chairman
Senate Labor & Commerce Committee

RE: Senate Bill 151.

Senator Eliason:

I am writing to express our concurrence with Senate Bill 151.

I am President of the United Food & Commercial Workers Union Local #1496. We represent approximately 250 employees of Alaska Sales & Service in Anchorage, a lot of whom are commission employees.

We see the benefit of our members being able, if they choose, to work more hours to increase their earning capacity.

Thank you for your consideration in this matter.

Sincerely,

Robert K. Freimuth

Robert K. Freimuth
President
UFCW Local #1496



1300 E. 5th. Avenue
Anchorage, Alaska 99501
Phone (907) 279-9641
FAX (907) 276-8942

February 23, 1989

Senator Dick Eliason
Chairman Labor and Commerce Committee
Juneau, Alaska

Dear Senator Eliason:

Alaska Sales and Service, Inc. strongly urges the passage of Senate Bill #151 as proposed by Senator Steve Frank.

This amendment to the wage and hour bill would benefit the consumer and the automotive mechanic as well as the company.

Very truly yours,

ALASKA SALES AND SERVICE, INC.

A. Douglas Hulen
A. Douglas Hulen
President

ADH:mes

GENE'S

Gene's Chrysler Plymouth Dodge Saab

1804 Cushman Street
Fairbanks, Alaska 99701
(907) 462-7116

February 3, 1989

Senator Steve Frank
Pouch V
Juneau, Alaska 99811

Re: Commissioned Automotive Technicians

Dear Senator Frank:

Your introduction of a bill to exempt commissioned automotive technicians from state wage and hour laws will be strongly supported by all franchised automotive dealers for many reasons:

1. The "flat rate" manuals, such as Chilton's, have been prepared by experts in automotive technology. The time allocations are based on the experiences of certified technicians and should be considered gospel.

These manuals are similar to those used by most physicians, such as surgeons and anesthesiologists, in which unit values have been assigned to all surgical procedures. These units comply with insurance companies standards for payment. Consumers are accustomed and satisfied with the billing method.

An automotive technician is not a physician, but is an "auto doctor" and just as important to the consumer when they have been inconvenienced by transportation problems.

2. Consumers and manufacturers cannot be expected to bear the cost of overtime since a less skilled technician could easily abuse the time by purposely causing a repair to extend into the overtime schedule thus increasing his earnings.

Dealerships cannot afford to absorb the overtime either, especially since they have additional obligations based on employees compensation, these include workers' compensation, and federal and state taxes.

3. Our current hourly rate of \$45.00, we feel, is the

Page 2

Senator Steve Frank

maximum our market can bear. We feel we would put ourselves out of business to charge more.

4. Skilled and/or experienced technicians are hard to come by, and journeyman technicians at a premium. We currently have standing ads in Anchorage and Seattle newspapers and are on a recruiting list at the Denver Automotive and Diesel College.
5. During our recent cold spell we, as did all other dealers, became extremely backlogged. our customers could not understand why we could not produce more, they apparently are not aware of current regulations. Our technicians were more than willing to work extra, they too, did not think about our other problems as stated in item 2.
6. If sufficient personnel was available, we could double shift when backlogs occur, but that is not practical either, since we could not keep more personnel busy during regular business load.

The State of Alaska sincerely needs to address the problem and make changes to comply with Federal regulations.

We thank you, Senator Frank, for your recognition of the problem and will do anything we can to help resolve it.

Very truly yours,

James J. Inmuel

John P. Inmuel

6-0638E
Cramer
2/23/89

1 IN THE SENATE

BY FRANK AND FAHRENKAMP

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 151

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4 SIXTEENTH LEGISLATURE - FIRST SESSION

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