

**SB**

**131**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/8/05

FURTHER:

REPORTED OUT

APR 15 2005

SENATE FINANCE  
COMMITTEE

DATE TURNED  
IN TO OFFICE:

4 | 15 | 05

Finance Committee considered

SENATE BILL NO. 131

## SB 131 WAGE & HOUR ACT: EXEC/PROF/ADMIN/SALES

"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive, and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 131 (FIN)
- adopt previous \_\_\_\_\_ CS CS FORTHCOMING (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

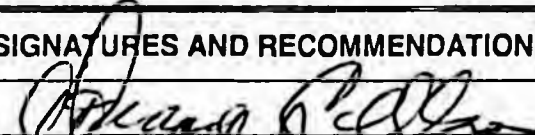

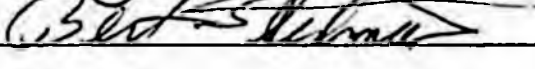


**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
DOL	3/14/05			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
	✓			
	✓			
COCHAIR: 	✓			
COCHAIR: 	✓			

APR 15 2005

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number 1  
Bill Version: CSSB 131(L&C)  
(S) Publish Date: 4/8/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Wage & Hour Act: Exec/Prof/Admin/Sales RDU: Labor Standards and Safety  
Sponsor: Senate L&C Component: Wage and Hour  
Requester: Senate L&C Component Number: 345

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: None  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no anticipated financial impact to the department as a result of this legislation

Prepared by: Grey Mitchell, Director Phone: 465-4855  
 Division: Labor Standards and Safety Date/Time: 3/1/05 8:23 AM  
 Approved by: Greg O'Claray, Commissioner Date: 3/1/2005  
 Agency: Department of Labor and Workforce Development

Senate Amendment

Offered by Senator Bunde  
Amendment to CS for Senate Bill 131(L&C)

24-LS0718/F

1 Page 1, line 7, following "occupations;":

2       Insert "directing retrospective application of the provisions of this Act to work  
3 performed before the effective date of this Act for purposes of claims filed on or after  
4 the effective date of this Act, and disallowing retrospective application for purposes of  
5 claims for that work that are filed before the effective date of this Act;"

6

7 Page 5, following line 30:

8       Insert a new bill section to read:

9       \*\* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11       APPLICATION AS TO WORK PERFORMED BEFORE THE EFFECTIVE DATE  
12 OF THIS ACT. (a) This Act applies retrospectively to work performed before the effective  
13 date of this Act for purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150  
14 (Alaska Wage and Hour Act) that is filed on or after the effective date of this Act.

15       (b) This Act does not apply to work performed before the effective date of this Act for  
16 purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150 that is filed before  
17 the effective date of this Act."

18

19 Renumber the following bill section accordingly.

SENATE FINANCE COMMITTEE  
4 / 15 / 2005 COMMITTEE ACTION

Bill Number	58131		
Amendment	#1		
Motion	to amend		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Green		
Removed	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stedman			
Senator Bunde			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
<b>MOTION</b>	Passed		

CS FOR SENATE BILL NO. 131(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL  
FOR AN ACT ENTITLED

1 "An Act amending the Alaska Wage and Hour Act as it relates to the employment of a  
2 person acting in a supervisory capacity or in an administrative, executive, or  
3 professional capacity; relating to definitions under the Alaska Wage and Hour Act and  
4 providing definitions for persons employed in administrative, executive, and  
5 professional capacities, for persons working in the capacity of an outside salesman, for  
6 persons working in the capacity of a salesman employed on a straight commission basis,  
7 and for persons that perform computer-related occupations; directing retrospective  
8 application of the provisions of this Act to work performed before the effective date of  
9 this Act for purposes of claims filed on or after the effective date of this Act, and  
10 disallowing retrospective application for purposes of claims for that work that are filed  
11 before the effective date of this Act; and providing for an effective date."

} Amend #

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

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

2           Sec. 23.10.055. Exemptions; compensation of executives, administrators,  
3 and professionals. The provisions of AS 23.10.050 - 23.10.150 do not apply to

4           (1) an individual employed in agriculture, which includes farming in  
5 all its branches and, among other things, includes the cultivation and tillage of the soil,  
6 dairying, the production, cultivation, growing, and harvesting of any agricultural or  
7 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or  
8 poultry, and any practices, including forestry and lumbering operations, performed by  
9 a farmer or on a farm as an incident to or in conjunction with the farming operations,  
10 including preparation for market, or delivery to storage or to market or to carriers for  
11 transportation to market;

12           (2) an individual employed in the catching, trapping, cultivating or  
13 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of  
14 animal and vegetable life;

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

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

18           (5) an individual employed by the United States or by the state or a  
19 political subdivision of the state, except as provided in AS 23.10.065(b), including  
20 prisoners not on furlough detained or confined in prison facilities;

21           (6) an individual engaged in the nonprofit activities of a nonprofit  
22 religious, charitable, cemetery, or educational organization or other nonprofit  
23 organization where the employer-employee relationship does not, in fact, exist, and  
24 where services rendered to the organization are on a voluntary basis and are related  
25 only to the organization's nonprofit activities; for purposes of this paragraph,  
26 "nonprofit activities" means activities for which the nonprofit organization does not  
27 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

28           (7) an employee engaged in the delivery of newspapers to the  
29 consumer;

30           (8) an individual employed solely as a watchman or caretaker of a  
31 plant or property that is not in productive use for a period of four months or more;

1 (9) an individual employed

2 (A) in a bona fide executive, administrative, or professional  
3 capacity;

4 (B) [OR] in the capacity of an outside salesman or a salesman  
5 who is employed on a straight commission basis; or

6 (C) as a computer systems analyst, computer programmer,  
7 software engineer, or other similarly skilled worker;

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

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

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

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

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

18 (13) an individual who drives a taxicab, is compensated for taxicab  
19 services exclusively by customers of the service, whose written contractual  
20 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch  
21 services are based upon flat contractual rates and not based on a percentage share of  
22 the individual's receipts from customers, and whose written contract with owners of  
23 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that  
24 the contract places no restrictions on hours worked by the individual or on areas in  
25 which the individual may work except to comply with local ordinances;

26 (14) a person who holds a license under AS 08.54 and who is  
27 employed by a registered guide or master guide licensed under AS 08.54, for the first  
28 60 workdays [WORK DAYS] in which the person is employed by the registered  
29 guide or master guide during a calendar year;

30 (15) an individual engaged in activities for a nonprofit religious,  
31 charitable, civic, cemetery, recreational, or educational organization where the

1 employer-employee relationship does not, in fact, exist, and where services are  
 2 rendered to the organization under a work activity requirement of AS 47.27 (Alaska  
 3 temporary assistance program);

4 (16) an individual who

5 (A) provides emergency medical services only on a voluntary  
 6 basis;

7 (B) serves with a full-time fire department only on a voluntary  
 8 basis; or

9 (C) provides ski patrol services on a voluntary basis; or

10 (17) a student participating in a University of Alaska practicum  
 11 described under AS 14.40.065.

12 \* Sec. 2. AS 23.10.055 is amended by adding new subsections to read:

13 (b) Notwithstanding (c) of this section, an individual employed in a bona fide  
 14 executive, administrative, or professional capacity shall be compensated on a salary or  
 15 fee basis at a rate of not less than two times the state minimum wage for the first 40  
 16 hours of employment each week, exclusive of board or lodging that is furnished by the  
 17 individual's employer.

18 (c) In (a)(9) of this section,

19 (1) "bona fide executive, administrative, or professional capacity" has  
 20 the meaning and shall be interpreted in accordance with 29 U.S.C. 201 - 219 (Fair  
 21 Labor Standards Act of 1938), as amended, or the regulations adopted under those  
 22 sections;

23 (2) "computer systems analyst, computer programmer, software  
 24 engineer, or other similarly skilled worker" has the meaning and shall be interpreted in  
 25 accordance with 29 U.S.C. 201 - 219 (Fair Labor Standards Act of 1938), as amended,  
 26 or the regulations adopted under those sections;

27 (3) "outside salesman" means an employee

28 (A) who is customarily and regularly away from the employer's  
 29 place of business; and

30 (B) whose primary duty is making sales or contracts for sales,  
 31 consignments, or shipment, or obtaining orders for service or for use of

1 facilities for which consideration will be paid by the client or customer;

2 (4) "salesman who is employed on a straight commission basis" means  
3 an employee

4 (A) who is customarily and regularly employed on the business  
5 premises of the employer;

6 (B) who is compensated on a straight commission basis for the  
7 purpose of making sales or contracts for sales, consignments, shipments, or  
8 obtaining orders for services or the use of facilities for which a consideration  
9 will be paid by the client or customer; and

10 (C) whose primary duty is making sales or contracts for sales,  
11 consignments, shipments, or obtaining orders for service or the use of facilities  
12 for which a consideration will be paid by the client or customer.

13 \* Sec. 3. AS 23.10.060(a) is amended to read:

14 (a) An employer who employs employees engaged in commerce or other  
15 business, or in the production of goods or materials in the state, may not employ an  
16 employee for a workweek longer than 40 hours or for more than eight hours a day.  
17 [THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF A PERSON  
18 ACTING IN A SUPERVISORY CAPACITY.]

19 \* Sec. 4. AS 23.10.085(b) is amended to read:

20 (b) The regulations may, without limiting the generality of (a) of this section,  
21 define terms used in AS 23.10.050 - 23.10.150, and restrict or prohibit industrial  
22 homework or other acts or practices that the director finds appropriate to carry out the  
23 purpose of AS 23.10.050 - 23.10.150, or to prevent the circumvention or evasion of  
24 AS 23.10.050 - 23.10.150. [IF THE REGULATIONS DEFINING AN INDIVIDUAL  
25 EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR  
26 PROFESSIONAL CAPACITY FOR PURPOSES OF AS 23.10.055 REQUIRE THAT  
27 THE INDIVIDUAL RECEIVE A MINIMUM SALARY, THE REQUIRED  
28 MINIMUM SALARY MUST BE TWO TIMES THE STATE MINIMUM WAGE  
29 FOR THE FIRST 40 HOURS OF EMPLOYMENT EACH WEEK.]

30 \* Sec. 5. AS 23.10.145 is amended to read:

31 **Sec. 23.10.145. Definitions.** If not defined in this title or in regulations

1 adopted under this title, terms used in AS 23.10.050 - 23.10.150 shall be defined as  
2 they are defined in 29 U.S.C. 201 - 219 ( [THE FEDERAL] Fair Labor Standards Act  
3 of 1938), as amended, or the regulations adopted under those sections [IT].

4 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 APPLICATION AS TO WORK PERFORMED BEFORE THE EFFECTIVE DATE  
7 OF THIS ACT. (a) This Act applies retrospectively to work performed before the effective  
8 date of this Act for purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150  
9 (Alaska Wage and Hour Act) that is filed on or after the effective date of this Act.

10 (b) This Act does not apply to work performed before the effective date of this Act for  
11 purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150 that is filed before  
12 the effective date of this Act.

13 \* Sec. 7. This Act takes effect July 1, 2005.

Amend #1



Alaska State Legislature

Senator Con Bunde  
Senate District P

Vice Chair: Senate Finance Committee  
Chair: Senate Labor & Commerce Committee

**SB 131**  
**SPONSOR STATEMENT**  
**A Senate Labor and Commerce bill**

*"An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis."*

Alaska's Wage and Hour Act (AS 23.10.050-23.10.150) establishes the provisions for overtime compensation. AS 23.10.055 sets forth exemptions to the Wage and Hour Act. One of these exemptions is "an individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis."

As currently defined in our administrative code, the definitions of "executive capacity," "administrative capacity," and "professional capacity" are confusing and difficult to interpret. In order to determine if someone is an executive, administrative or professional employee, you have to use what is known as the "long test." In addition to numerous other factors, the long test includes a calculation of the employee's time spent on "non-exempt work" (i.e. work that is not executive, administrative or professional). If an employee spends more than 20 percent (40 percent in retail or service establishments) of their time on non-exempt work, they become subject to the Wage and Hour Act and can qualify for overtime. The ambiguity within the definitions, including the implementation of the 80/20 test, has led to numerous wage and hour lawsuits, causing great expense to employers and employees.

HB 182 deletes the 80/20 test and sets forth definitions which are much more understandable. The simplicity provided by the new definitions will lead to greater compliance with the statutes. It is in the best interests of both the employer and employee that the statutes are straightforward, practical and easy to follow.

HB 182 also clarifies another area of confusion in the Wage and Hour provisions. Currently, a person acting in a "supervisory capacity" is exempt from payment of overtime, but not exempt from the full Wage and Hour Act. The definition of "supervisory capacity" in the regulations is also ambiguous and difficult to interpret. HB 182 removes this exemption from the statute. There are two reasons for deletion of the provision. The first reason is that due to the uncertainty in interpretation of the definition, the statute is currently unworkable. Secondly, the new definitions of "executive capacity" and "administrative capacity" would subsume a person working in a supervisory capacity. Therefore, there is no need to have a separate provision.

Enacting this bill will eliminate ambiguities, align Alaska more closely with other states and reduce the number of frivolous lawsuits, while protecting workers' rights to receive overtime.

**Sponsor Statement**

## SECTIONAL ANALYSIS FOR CS SB 131(L&C)

*Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity or in an administrative, executive or professional capacity; relating to definitions under the Alaska Wage and Hour act and providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; and providing for an effective date.*

CHANGES FROM CS SB 131/G ARE NOTED IN BOLD:

**Section 1:** Adds "computer systems analyst, computer programmer, software engineer or other similarly skilled workers" to the list of exemptions from the Wage & Hour Act.

The previous version had "computer related occupations" within the definition of "professional capacity". We have now broken them out as a separate exemption.

**Section 2:** AS 23.10.055(b)  
Requires individuals employed as executive, administrative and professionals be compensated on a salary of not less than two times the minimum wage for the first 40 hours of employment.

The CS has not changed this provision, but it has been moved within the statutes.

AS 23.10.055(c)(1)

Provides that "bona fide executive, administrative or professional capacity" be defined in accordance with the Fair Labor Standards Act.

The definitions for these terms in the previous version mirrored the federal definitions, but were spelled out within the statute. Because there were questions as to the terms used within the definitions, we have reverted to the federal definitions for the above terms, as provisions have been made for each word used within the federal definitions.

AS 23.10.055(c)(2)

Provides that "computer systems analyst, computer programmer, software engineer or other similarly skilled worker" be defined in accordance with the Fair Labor Standards Act.

This section provides the definition for this exemption found in Section 1 of the bill. Currently, Alaska's regulations defer to the Fair Labor Standards Act when defining computer related occupations. 8 AAC 15.910(a)(11)(iv).

AS 23.10.055(c)(3)

Provides a definition for "outside salesman."

This definition has not changed from the previous version, but it has been moved within the statutes.

AS 23.10.055(c)(4)

Provides a definition for "salesman who is employed on a straight commission basis."

This definition has not changed from the previous version, but it has been moved within the statutes.

**Section 3:** Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime.

This provision has not changed from the previous version, but it has moved to a different section within the bill.

**Section 4:** Deletes the minimum salary requirement when defining these terms in regulation. This salary requirement has been moved to AS 23.10.055(b) (see Section 2).

This provision has not changed from the previous version, but it has moved to a different section within the bill.

**Section 5:** Inserts the United States code reference to the Fair Labor Standards Act of 1938.

This section is new. Where any reference to a federal law is found within our statutes, our drafters would like the correct United States Code references inserted.

**Section 6:** Provides for an effective date of July 1, 2005.

This CS has included an effective date.

CS FOR SENATE BILL NO. 131(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL  
FOR AN ACT ENTITLED

1 "An Act amending the Alaska Wage and Hour Act as it relates to the employment of a  
2 person acting in a supervisory capacity or in an administrative, executive, or  
3 professional capacity; relating to definitions under the Alaska Wage and Hour Act and  
4 providing definitions for persons employed in administrative, executive, and  
5 professional capacities, for persons working in the capacity of an outside salesman, for  
6 persons working in the capacity of a salesman employed on a straight commission basis,  
7 and for persons that perform computer-related occupations; and providing for an  
8 effective date."

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

10 \* Section 1. AS 23.10.055 is amended to read:

11           Sec. 23.10.055. Exemptions: compensation of executives, administrators,  
12 and professionals. The provisions of AS 23.10.050 - 23.10.150 do not apply to

13           (1) an individual employed in agriculture, which includes farming in

1 all its branches and, among other things, includes the cultivation and tillage of the soil,  
 2 dairying, the production, cultivation, growing, and harvesting of any agricultural or  
 3 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or  
 4 poultry, and any practices, including forestry and lumbering operations, performed by  
 5 a farmer or on a farm as an incident to or in conjunction with the farming operations,  
 6 including preparation for market, or delivery to storage or to market or to carriers for  
 7 transportation to market;

8 (2) an individual employed in the catching, trapping, cultivating or  
 9 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of  
 10 animal and vegetable life;

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

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

14 (5) an individual employed by the United States or by the state or a  
 15 political subdivision of the state, except as provided in AS 23.10.065(b), including  
 16 prisoners not on furlough detained or confined in prison facilities;

17 (6) an individual engaged in the nonprofit activities of a nonprofit  
 18 religious, charitable, cemetery, or educational organization or other nonprofit  
 19 organization where the employer-employee relationship does not, in fact, exist, and  
 20 where services rendered to the organization are on a voluntary basis and are related  
 21 only to the organization's nonprofit activities; for purposes of this paragraph,  
 22 "nonprofit activities" means activities for which the nonprofit organization does not  
 23 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

24 (7) an employee engaged in the delivery of newspapers to the  
 25 consumer;

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 27 plant or property that is not in productive use for a period of four months or more;

28 (9) an individual employed

29 (A) in a bona fide executive, administrative, or professional  
 30 capacity;

31 (B) [OR] in the capacity of an outside salesman or a salesman

1 who is employed on a straight commission basis; or

2 (C) as a computer systems analyst, computer programmer,  
 3 software engineer, or other similarly skilled worker;

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

6 (11) an individual under 18 years of age employed on a part-time basis  
 7 not more than 30 hours in a week;

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

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

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

14 (13) an individual who drives a taxicab, is compensated for taxicab  
 15 services exclusively by customers of the service, whose written contractual  
 16 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch  
 17 services are based upon flat contractual rates and not based on a percentage share of  
 18 the individual's receipts from customers, and whose written contract with owners of  
 19 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that  
 20 the contract places no restrictions on hours worked by the individual or on areas in  
 21 which the individual may work except to comply with local ordinances;

22 (14) a person who holds a license under AS 08.54 and who is  
 23 employed by a registered guide or master guide licensed under AS 08.54, for the first  
 24 60 workdays [WORK DAYS] in which the person is employed by the registered  
 25 guide or master guide during a calendar year;

26 (15) an individual engaged in activities for a nonprofit religious,  
 27 charitable, civic, cemetery, recreational, or educational organization where the  
 28 employer-employee relationship does not, in fact, exist, and where services are  
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 30 temporary assistance program);

31 (16) an individual who

1 (A) provides emergency medical services only on a voluntary  
2 basis;

3 (B) serves with a full-time fire department only on a voluntary  
4 basis; or

5 (C) provides ski patrol services on a voluntary basis; or

6 (17) a student participating in a University of Alaska practicum  
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8 \* Sec. 2. AS 23.10.055 is amended by adding new subsections to read:

9 (b) Notwithstanding (c) of this section, an individual employed in a bona fide  
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11 fee basis at a rate of not less than two times the state minimum wage for the first 40  
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13 individual's employer.

14 (c) In (a)(9) of this section,

15 (1) "bona fide executive, administrative, or professional capacity" has  
16 the meaning and shall be interpreted in accordance with 29 U.S.C. 201 - 219 (Fair  
17 Labor Standards Act of 1938), as amended, or the regulations adopted under those  
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19 (2) "computer systems analyst, computer programmer, software  
20 engineer, or other similarly skilled worker" has the meaning and shall be interpreted in  
21 accordance with 29 U.S.C. 201 - 219 (Fair Labor Standards Act of 1938), as amended,  
22 or the regulations adopted under those sections;

23 (3) "outside salesman" means an employee

24 (A) who is customarily and regularly away from the employer's  
25 place of business; and

26 (B) whose primary duty is making sales or contracts for sales,  
27 consignments, or shipment, or obtaining orders for service or for use of  
28 facilities for which consideration will be paid by the client or customer;

29 (4) "salesman who is employed on a straight commission basis" means  
30 an employee

31 (A) who is customarily and regularly employed on the business

1 premises of the employer;

2 (B) who is compensated on a straight commission basis for the  
3 purpose of making sales or contracts for sales, consignments, shipments, or  
4 obtaining orders for services or the use of facilities for which a consideration  
5 will be paid by the client or customer; and

6 (C) whose primary duty is making sales or contracts for sales,  
7 consignments, shipments, or obtaining orders for service or the use of facilities  
8 for which a consideration will be paid by the client or customer.

9 \* Sec. 3. AS 23.10.060(a) is amended to read:

10 (a) An employer who employs employees engaged in commerce or other  
11 business, or in the production of goods or materials in the state, may not employ an  
12 employee for a workweek longer than 40 hours or for more than eight hours a day.  
13 [THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF A PERSON  
14 ACTING IN A SUPERVISORY CAPACITY.]

15 \* Sec. 4. AS 23.10.085(b) is amended to read:

16 (b) The regulations may, without limiting the generality of (a) of this section,  
17 define terms used in AS 23.10.050 - 23.10.150, and restrict or prohibit industrial  
18 homework or other acts or practices that the director finds appropriate to carry out the  
19 purpose of AS 23.10.050 - 23.10.150, or to prevent the circumvention or evasion of  
20 AS 23.10.050 - 23.10.150. [IF THE REGULATIONS DEFINING AN INDIVIDUAL  
21 EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR  
22 PROFESSIONAL CAPACITY FOR PURPOSES OF AS 23.10.055 REQUIRE THAT  
23 THE INDIVIDUAL RECEIVE A MINIMUM SALARY, THE REQUIRED  
24 MINIMUM SALARY MUST BE TWO TIMES THE STATE MINIMUM WAGE  
25 FOR THE FIRST 40 HOURS OF EMPLOYMENT EACH WEEK.]

26 \* Sec. 5. AS 23.10.145 is amended to read:

27 Sec. 23.10.145. Definitions. If not defined in this title or in regulations  
28 adopted under this title, terms used in AS 23.10.050 - 23.10.150 shall be defined as  
29 they are defined in 29 U.S.C. 201 - 219 ([THE FEDERAL] Fair Labor Standards Act  
30 of 1938), as amended, or the regulations adopted under those sections [IT].

31 \* Sec. 6. This Act takes effect July 1, 2005.



Alaska State Legislature

Senator Con Bunde  
Senate District P

Vice Chair, Senate Finance Committee  
Chair, Senate Labor & Commerce Committee

## SECTIONAL ANALYSIS CS for SB 131 ( )

*Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis.*

**Section 1:** Removes the provision that a person acting in a "supervisory capacity" is exempt from overtime. This sentence is being deleted, as "supervisors" will now be covered by the definitions found in Section 3 of the bill.

No changes in CS.

**Section 2:** Deletes the minimum salary requirement when defining these terms in regulation, as these terms will now be defined in statute (see Section 3).

No changes in CS.

**Section 3:** Defines "individual employed in an administrative capacity," "individual employed in an executive capacity," "individual employed in a professional capacity," "outside salesman," and "salesman employed on a straight commission basis."

### Changes made by CS:

Page 3, Lines 17-22: Adds teachers and computer related occupations to definition of "professional capacity." These occupations are included in the current definitions and were inadvertently left out.

Page 3, Lines 26-28: Inserted the term "primary duty"

Page 3, Lines 29-30: Replaced "a person" with "an employee"

Page 3, Line 31: Inserted "customarily"

Page 4, Lines 6-7: Inserted a primary duties test.

THE  
FOLLOWING  
DOCUMENT(S)  
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POOR  
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COPIES

24-LS0718\G  
Craver  
3/17/05

CS FOR SENATE BILL NO. 131(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL  
FOR AN ACT ENTITLED

1 "An Act amending the Alaska Wage and Hour Act as it relates to the employment of a  
2 person acting in a supervisory capacity; providing definitions for persons employed in  
3 administrative, executive, and professional capacities, for persons working in the  
4 capacity of an outside salesman, and for persons working in the capacity of a salesman  
5 employed on a straight commission basis."

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

7 \* Section 1. AS 23.10.060(a) is amended to read:

8 (a) An employer who employs employees engaged in commerce or other  
9 business, or in the production of goods or materials in the state, may not employ an  
10 employee for a workweek longer than 40 hours or for more than eight hours a day.  
11 [THIS SECTION DOES NOT APPLY TO THE EMPLOYMENT OF A PERSON  
12 ACTING IN A SUPERVISORY CAPACITY.]

13 \* Sec. 2. AS 23.10.085(b) is amended to read:

1 (b) The regulations may, without limiting the generality of (a) of this section,  
2 define terms used in AS 23.10.050 - 23.10.150, and restrict or prohibit industrial  
3 homework or other acts or practices that the director finds appropriate to carry out the  
4 purpose of AS 23.10.050 - 23.10.150, or to prevent the circumvention or evasion of  
5 AS 23.10.050 - 23.10.150. [IF THE REGULATIONS DEFINING AN INDIVIDUAL  
6 EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR  
7 PROFESSIONAL CAPACITY FOR PURPOSES OF AS 23.10.055 REQUIRE THAT  
8 THE INDIVIDUAL RECEIVE A MINIMUM SALARY, THE REQUIRED  
9 MINIMUM SALARY MUST BE TWO TIMES THE STATE MINIMUM WAGE  
10 FOR THE FIRST 40 HOURS OF EMPLOYMENT EACH WEEK.]

11 \* Sec. 3. AS 23.10.145 is amended by adding a new subsection to read:

12 (b) In AS 23.10.050 - 23.10.150,

13 (1) "individual employed in an administrative capacity" means an  
14 employee

15 (A) who is compensated on a salary or fee basis at a rate of not  
16 less than two times the state minimum wage for the first 40 hours of  
17 employment each week, exclusive of board, lodging, or other facilities;

18 (B) whose primary duty is the performance of office or  
19 nonmanual work directly related to the management or general business  
20 operations of the employer or the employer's customers; and

21 (C) whose primary duty includes the exercise of discretion and  
22 independent judgment with respect to matters of significance;

23 (2) "individual employed in an executive capacity" means an employee

24 (A) who is compensated on a salary or fee basis at a rate of not  
25 less than two times the state minimum wage for the first 40 hours of  
26 employment each week, exclusive of board, lodging, or other facilities;

27 (B) whose primary duty is management of the enterprise in  
28 which the employee is employed or of a customarily recognized department or  
29 subdivision of the enterprise;

30 (C) who customarily and regularly directs the work of two or  
31 more other employees; and

1 (D) who has the authority to hire or fire other employees or  
2 whose suggestions and recommendations as to the hiring, firing, advancement,  
3 promotion, or any other change of status of other employees are given  
4 particular weight;

5 (3) "individual employed in a professional capacity" means an  
6 employee

7 (A) who is compensated on a salary or fee basis at a rate of not  
8 less than two times the state minimum wage for the first 40 hours of  
9 employment each week, exclusive of board, lodging, or other facilities;

10 (B) whose primary duty is to

11 (i) perform work requiring knowledge of an advanced  
12 type in a field of science or learning customarily acquired by a  
13 prolonged course of specialized intellectual instruction;

14 (ii) perform work requiring invention, imagination,  
15 originality, or talent in a recognized field of artistic or creative  
16 endeavor;

17 (iii) teach, tutor, instruct, or lecture in the activity of  
18 imparting knowledge as a teacher certified or recognized as such in a  
19 school or other educational establishment or institution; or

20 (iv) perform computer related occupations that are  
21 exempted from the Fair Labor Standards Act under 29 C.F.R. Part  
22 541.400;

23 (4) "outside salesman" means an employee

24 (A) who is customarily and regularly away from the employer's  
25 place of business; and

26 (B) whose primary duty is making sales or contracts for sales,  
27 consignments, or shipment, or obtaining orders for service or for use of  
28 the services for which consideration will be paid by the client or customer;

29 (5) "salesman employed on a straight commission basis" means an  
30 employee

31 (A) who is customarily and regularly employed on the business

1  
2  
3  
4  
5  
6  
7  
8

premises of the employer:

(B) who is compensated on a straight commission basis for the purpose of making sales or contracts for sales, consignments, shipments, or obtaining orders for services or the use of facilities for which a consideration will be paid by the client or customer; and

(C) whose primary duty is making sales or contracts for sales, consignments, shipments, or obtaining orders for service or the use of facilities for which a consideration will be paid by the client or customer.

# STATE OF ALASKA

Department Of Labor and Workforce Development

FRANK H. MURKOWSKI, GOVERNOR

P. O. Box 21149  
Juneau, AK 99802-1149  
Phone: (907)465-2700  
Fax: (907)465-2784

## OFFICE OF THE COMMISSIONER

April 14, 2005

The Honorable Norman Rokeberg  
Alaska State Legislature  
Capitol Building, Room 214  
Juneau, Alaska 99801

Dear Representative Rokeberg:

*I AM PLEASED TO INFORM YOU . . . . .*

The Alaska Department of Labor and Workforce Development is in support of CSHB 182(FIN).

This bill will help to streamline the cumbersome process of determining whether an employee is exempt from Alaska's overtime pay requirements, while minimizing the potential for employee abuse by expanding the minimum salary provision. The minimum annual salary of \$29,744 will help to ensure that line workers are not artificially categorized in overtime exempt positions. I applaud your efforts to carefully balance industry needs for clearer overtime pay guidelines with the needs of Alaska's workforce.

We do not expect the proposed changes to have a significant impact on the department's operations. Less than five percent of wage claims filed with the department in FY 2004 involved issues associated with the overtime pay exemptions affected by this proposed legislation. Although the changes may initially produce more questions, the new standards are expected to be easier to explain.

If you need any additional assistance with this bill, please let me know.

Sincerely,

  
Greg O'Claray  
Commissioner

cc: Grey Mitchell, Director LS&S

BILL BACKUP

Senate Bill: SB 131

Short Title: Wage & Hour Act: Exec/Prof/Admin/Sales

Sponsor: Senate Labor and Commerce Committee

Current Version: SB 131

Contact: Jane Alberts, 465-4843

#### Summary:

- Would clarify the definitions of "executive capacity", "administrative capacity" and "professional capacity" as defined in Administrative Code when determining overtime wages under the Wage and Hour Act
- Eliminates the "long test" also known as the "80/20" test and inserts more understandable definitions
- More clearly defines "exempt" and "non-exempt" work when determining payment of overtime
- Eliminates the definition and provision for "supervisory capacity" as this definition is assumed through the other definitions of "professional" and "executive" capacities

#### Benefits:

- Straightforward language brings clarity to employers and employees
- Will lead to great compliance with the Wage and Hour Act
- Reduce lawsuits emerging from ambiguity of the statute

#### Background

- Alaska law has historically exempted individuals employed in a "bona fide executive, administrative or professional" capacity. AS 23.10.055.
- The Alaska Administrative Code regulations, which defined these terms, were enacted in 1978.
- The definitions, when written, were similar to the federal exemptions in the Fair Labor Standards Act (FLSA).

## Current Definitions vs. New Definitions

Employees exempt from Wage and Hour Act	Current Definition	Senate Bill 131
Administrative	<ul style="list-style-type: none"> <li>• Primary duties are management, supervising</li> <li>• Uses discretion and independent judgment</li> <li>• Performs work under only general supervision</li> <li>• Regularly and directly assists a proprietor or an exempt executive employee of the employer</li> <li>• Performs work along specialized or technical lines requiring special training</li> <li>• Salary at least 2.0 times minimum wage in first forty hours a week</li> <li>• 80/20 rule</li> </ul>	<ul style="list-style-type: none"> <li>• Primary duty is performance of office or nonmanual work directly related to management or general business operations</li> <li>• Uses discretion and independent judgment</li> <li>• Salary is at least 2.0 times the minimum wage in first forty hours a week</li> </ul>
Executive	<ul style="list-style-type: none"> <li>• Primary duty is management of the business</li> <li>• Directs two or more employees</li> <li>• May hire and fire</li> <li>• Customarily and regularly exercises discretionary authority</li> <li>• Salary at least 2.0 times the minimum wage in first forty hours a week</li> <li>• 80/20 rule</li> </ul>	<ul style="list-style-type: none"> <li>• Primary duty is management of the business</li> <li>• Directs two or more employees</li> <li>• May hire and fire</li> <li>• Salary at least 2.0 times the minimum wage in first forty hours a week</li> </ul>
Professional	<ul style="list-style-type: none"> <li>• Primary duty requires an advanced degree</li> <li>• Or, is creative in nature, teacher or computer-related</li> <li>• Uses discretion and independent judgment</li> <li>• Work is predominately intellectual and varied in character</li> <li>• Salary at least 2.0 times the minimum wage in first forty hours a week</li> </ul>	<ul style="list-style-type: none"> <li>• Primary duty requires knowledge from prolonged course of specialized intellectual instruction</li> <li>• Or invention, imagination, originality or talent in artistic or creative endeavor</li> <li>• Salary at least 2.0 times the minimum wage in first forty hours a week</li> </ul>

# State by State Overtime Comparison

Completed Spring, 2004

By: John M. Sedor

## Single Definitional Standard – 32 Jurisdictions

(These jurisdictions either do not have applicable wage/hour regulations or directly reference the overtime exemption definitions found in the Fair Labor Standards Act to define their own exemption from overtime requirements. In these jurisdictions, employers will only need to comply with one definitional standard – the federal standard – regarding overtime exemption issues.)

Alabama	Arizona	Delaware	District of Columbia
Florida	Georgia	Idaho	Indiana
Iowa	Kansas	Louisiana	Maine
Massachusetts	Michigan	Mississippi	Missouri
Nebraska	Nevada	New Hampshire	New Mexico
New York	North Carolina	Ohio	Oklahoma
South Carolina	South Dakota	Tennessee	Texas
Utah	Vermont	Virginia	Wyoming

## “Old” Short Test – 8 Jurisdictions

(The “old” short test is similar to the new federal regulations with regard to the “time performing exempt functions” factor)

Connecticut	Illinois	Kentucky	Maryland
Montana	North Dakota <sup>1</sup>	Rhode Island <sup>1</sup>	West Virginia

<sup>1</sup> Definitional language contains minor variations from old federal test.

## Unique Standards – 4 Jurisdictions

(Four states have a unique standard for determining overtime exemption definitions)

California	Colorado	Hawaii	Oregon	
------------	----------	--------	--------	--

## “Old” Long Test – 7 Jurisdictions

Alaska	Arkansas	Minnesota	New Jersey	Pennsylvania
Washington	Wisconsin <sup>2</sup>			

<sup>2</sup> Definitional language contains minor variations from old federal test

## EMPLOYERS BEWARE:

### NEW WAGE AND HOUR REQUIREMENTS MAY SIGNIFICANTLY IMPACT ALASKA EMPLOYERS



Article by Bill Evans, partner,  
Dorsey and Whitney LLP,  
vice-chair, Anchorage Chamber  
of Commerce

Both the federal and state wage and hour laws recently underwent significant revisions. It is very important

that Alaska employers understand these new requirements and ensure that their exempt employees are still in compliance with the new regulations and statutes. Even inadvertent departure from the new requirements can result in substantial liability.

**Major Federal Revisions.** On April 23, 2004, the United States Department of Labor published its long-anticipated revisions concerning the so-called white-collar exemptions (i.e., executive, administrative, professional, computer professional and outside salesperson). A key change to the federal system is that all employees who now earn less than \$455 per week—or \$23,660 per year—must receive overtime. Previously, employees had to earn only \$155 per week in order to qualify as exempt. The U.S. government estimates that more than 1.3 million workers nationwide will benefit from this mandated salary increase. A much fewer number of employees, estimated to be approximately 107,000 nationwide, may lose their current entitlement to overtime due to other changes.

By wholly eliminating the antiquated "long test" for determining exemptions, the Department of Labor did away with the last vestiges of the beleaguered 80/20 requirement that mandated that exempt employees could spend no more than 20 percent of their time engaged in nonexempt duties. The difficulty in objectively documenting compliance with this requirement made it a particularly vexing issue for many employers.

The Department of Labor also significantly revised the test used for determining whether an employee qualifies for an exemption based on his or her job duties. For example, administrative employees, who have always been required to exercise discretion and independent judgment in performing their duties, must now exercise such discretion and independent judgment with respect to "matters of significance." See 29 C.F.R. § 541.200.

Another notable change involves the definition of an "executive" employee. In addition to managing a

department or customarily recognized subdivision of the employer and regularly directing the work of at least two other employees, the new definition of an "executive" employee requires:

"The employee must have authority to hire or fire other employees or his/her suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight."

29 C.F.R. § 541.100.

**Alaska Fails to Adopt Similar Changes.** Choosing not to follow the lead of the federal government, the Alaska Legislature maintained its historic definitions for the white-collar exemptions. Accordingly, Alaska employers now must ensure that their exemptions comply with two significantly different systems. For instance, the problematic 80/20 requirement is still very much alive under Alaska law. It is, therefore, increasingly possible that many employees may be exempt under one system but not under the other.

**Alaska Establishes Minimum Salary for Exempt Employees.** Although the Alaska Legislature did not adopt any changes to the existing definitions for exempt employees, it did substantially increase the minimum salary that an exempt employee must earn. Moreover, it tied this minimum salary to the state's minimum wage, thereby guaranteeing that future increases in the minimum wage will also increase the minimum salary for exempt employees.

House Bill 255, which was submitted for Gov. Murkowski's signature on June 10, 2004, requires that any employee falling under the "administrative," "executive" or "professional" exemptions must earn a minimum salary of at least two times the state minimum wage for the first 40 hours of employment each week.

The current Alaska minimum wage is \$7.25 per hour. Accordingly, this new law will require that any exempt employee be paid a salary of \$580 per week—or \$30,160 per year. There is no evidence of any study being conducted to determine how many employees or employers in Alaska this new requirement will affect. This law will automatically go into effect 90 days after it is signed by the governor.

Support



ALASKA

## National Federation of Independent Business

### Statement of Support for SB 131

March 14, 2005

Employers in Alaska must follow both the Federal Fair Labor Standards Act (FLSA) and the State Wage and Hour Act in setting employee wages. Federal and State law exempts executive, administrative and professional employees from overtime requirements of the wage and hour act. To determine if an employee is exempt, Alaska is one of a few states that continue to apply the "long test" which includes a calculation of the employee's time spent on non-exempt work. (The 80/20 test)\*

Most states use the overtime exemption definitions found in the Fair Labor Standards Act relieving businesses of the burden of applying two systems. Senate Bill 131 removes the 80/20 test for salaried employees and implements a definition of duties test similar to the FLSA regulations.

Keeping track of a salaried employee's hourly activities is a cumbersome if not impossible task. SB 131 is an important bill for small business and large business alike. NFIB/Alaska strongly supports this simplification of the law.

\* The 80/20 test requires an employer to keep track of how much time a salaried worker spends on non-exempt work. If the employee spends more than 20 percent (40 percent in retail or service businesses) of their time on non-exempt work, they are subject to the Wage and Hour Act and can qualify for overtime.

## Please Support SB 131

Submitted by Thyes Shaub on behalf of NFIB/Alaska.



**COASTAL HELICOPTERS, INC.**

LOCATED ON THE JUNEAU AIRPORT  
8995 YANDUKIN DRIVE JUNEAU AK 99801  
(907) 789-5600 FAX (907) 789-7076

e-mail: [coastal@gci.net](mailto:coastal@gci.net)  
March 16, 2005

Senator Con Bunde, Chair  
Senate Labor & Commerce Committee  
Fax: 465-3871

Dear Senator Bunde:

SB 131

Thank you for sponsoring this important legislation. This is a request for your committee to approve SB 131. This bill recognizes the cumbersome, if not impossible, task of tracking a professional employee's time hour by hour. As you know, the Federal FSLA has relieved employers of that burden and most states have done so also.

It is unrealistic to require additional paperwork hour by hour for tracking professional or supervisory employees. As I am sure you are aware, a supervisor or professional may start a task but demands of the job may require a change in task before completion. To have an employee at that level be required to write down each task beginning to end to see if it meets the "80/20" rule would create an additional burden on jobs that are often by their nature "burdensome."

The reason for the higher compensation for employees at the professional, administrative or supervisory level is the understanding that they have a job that needs to be accomplished and have the ability to decide the means for accomplishing that job.

Please approve this important legislation.

*Thanks*

Sincerely,  
COASTAL HELICOPTERS, INC.

*Dorothy S. Wilson*  
Dorothy S. Wilson, Vice President



March 16, 2005

Senator Con Bunde  
State Capital Building  
Juneau, AK 99801  
Sent via fax: (907) 465-3871

Dear Senator Bunde,

On behalf of the Alaska Hotel & Lodging Association and the Alaska Restaurant & Beverage Association I convey full support of SB 131. This is an important bill for our industry and for every employee of exempt workers because it provides for exempt status language that employers are easily able to understand and comply with. Currently, exempt status language requires that employers track and log how exempt workers spend their time by the hour to ensure appropriate compliance with the 80/20 or 60/40 provisions.

The definition of exempt status eligibility being based on primary job duty rather than the amount of time a worker spends on exempt vs. non exempt work mirrors the real life work roles of executive and professional salaried workers. The Federal definition of exempt worker was recently changed for the very same reason; it is burdensome to comply with and makes employers vulnerable to costly lawsuits.

A focus on primary job duties provides a clear definition of who is eligible to be exempt and who is not. Without this clear definition, many employers chose to make all employees hourly wage earners, denying the executive and professional management staff access to benefits that could otherwise be offered to them.

The provisions of SB 131 benefit both the employer and the employee. Thank you for your sponsorship of this bill.

My best regards,

A handwritten signature in cursive script that reads "Karen R. Rogina".

Karen R. Rogina  
President & CEO

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

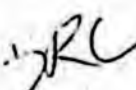
State Capitol  
Juneau, Alaska 99801-1102  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 15, 2005

**SUBJECT:** Sectional Summary of SB 131 (Work Order No. 24-LS0718\A)

**TO:** Senator Con Bunde  
Attn: Jane Alberts

**FROM:** Barbara R. Craver   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Deletes the exemption for supervisory work from AS 23.10.060(a).

Section 2. AS 23.10.085(b) is amended because the definitions for individuals working in an executive, administrative or professional capacity are placed in statutes rather than regulations by sec. 3 of this bill.

Section 3. A new subsection is added to AS 23.10.145 to provide definitions for:

- individual employed in an administrative capacity;
- individual employed in an executive capacity;
- individual employed in a professional capacity;
- outside salesman; and
- salesman employed on a straight commission basis.

If I may be of further assistance, please advise.

BRC:med  
05-183.med

Sectional Analysis

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 3/4/05

FURTHER: Finance

Date of 5-Day Notice: 3/10/05  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/8/05

Labor and Commerce Committee considered SENATE BILL NO. 131

**SB 131 WAGE & HOUR ACT: EXEC/PROF/ADMIN/SALES**

"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive, and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 131 (L=C)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DOL	3/14/05			<input checked="" type="checkbox"/>	1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

**SIGNATURES AND RECOMMENDATIONS:**

Davis  
Ellis  
Seekins  
B. Skewis

	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Benny Davis</i>			<input checked="" type="checkbox"/>	
<i>Ellis</i>	<input checked="" type="checkbox"/>			
<i>Seekins</i>	<input checked="" type="checkbox"/>			
<i>B. Skewis</i>	<input checked="" type="checkbox"/>			
CHAIR: <i>O Bunde</i>	<input checked="" type="checkbox"/>			

Bunde