



LAWS OF ALASKA

1989

Source

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Chapter No.

100

AN ACT

Relating to unemployment insurance and to unemployment insurance contribution overpayments; establishing a priority for payment; relating to disclosure of certain wage and unemployment compensation information; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 13

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 12, 1989
Actual Effective Date: Sections 11, 26, 29, 31, and 32
take effect June 13, 1989; remainder of Act takes effect
July 2, 1989. Section 26 is retroactive to January 1, 1988.
Section 29 is retroactive to September 7, 1986.

AN ACT

Relating to unemployment insurance and to unemployment insurance contribution overpayments; establishing a priority for payment; relating to disclosure of certain wage and unemployment compensation information; and providing for an effective date.

* Section 1. AS 16.10.290(a) is amended to read:

(a) A person applying for a license as a fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; [AND] (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them; and (3) unemployment insurance contributions. If the surety bond is insufficient to satisfy all obligations under this subsection, the obligations to persons furnishing labor and to independent registered commercial fishermen shall be paid before unemployment insurance contributions are paid. The surety or sureties must [SHALL] be satisfactory, in the determination of the commissioner.

* Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

(k) If an individual who is applying for or participating in a housing assistance program administered by the United States

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1 Department of Housing and Urban Development gives authorization, the
2 department shall disclose, to the United States Department of Housing
3 and Urban Development or to representatives of the housing assistance
4 program operating the program, wage information and unemployment com-
5 pensation information. The authorization shall be made by the indi-
6 vidual on a consent form approved by the department. The form must
7 state the information authorized to be released and require the signa-
8 ture of the individual. In this subsection,

9 (1) "unemployment compensation information" means whether
10 the individual is receiving, has received, or has applied for unem-
11 ployment compensation, and the amount of unemployment compensation
12 that the individual is receiving or will receive;

13 (2) "wage information" means the social security number, or
14 numbers if there are more than one, and quarterly wages of an em-
15 ployee, and the name, address, state, and, if known, federal employer
16 identification number of an employer reporting wages under this chap-
17 ter.

18 * Sec. 3. AS 23.20.145(f) is amended to read:

19 (f) Money credited to the account of this state in the unemploy-
20 ment trust fund by the Secretary of the Treasury of the United States
21 under 42 U.S.C. 1103 (Sec. 903, Social Security Act) may not be requi-
22 sitioned from this state's account or used except for the payment of
23 benefits and for the payment of expenses incurred for the adminis-
24 tration of this chapter. This money may be requisitioned under (b) of
25 this section for the payment of benefits. This money may also be
26 requisitioned and used for the payment of expenses incurred for the
27 administration of this chapter but only under a specific appropriation
28 by the legislature and only if the expenses are incurred and the money
29 is requisitioned after the enactment of an appropriation law that
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1 [WHICH]

2 (1) specifies the purpose for which the money is appropri-
3 ated and the amount appropriated;

4 (2) limits the period within which the money may be ob-
5 ligated to a period ending not more than two years after the date of
6 the enactment of the appropriation law; and

7 (3) limits the amount that [WHICH] may be obligated during
8 a fiscal year to an amount that [WHICH] does not exceed the amount by
9 which [(A)] the aggregate of the amounts credited to the account of
10 this state under 42 U.S.C. 1103 (Sec. 903, Social Security Act) during
11 that fiscal year and the 34 [24] preceding fiscal years exceeds [(B)]
12 the aggregate of the amounts obligated for administration and paid out
13 for benefits and charged against the amounts credited to the account
14 of this state during those 35 [25] fiscal years.

15 * Sec. 4. AS 23.20.145(g) is amended to read:

16 (g) Amounts credited to this state's account in the unemployment
17 trust fund under 42 U.S.C. 1103 (Sec. 903, Social Security Act) that
18 [WHICH] are obligated for administration or paid out for benefits
19 shall be charged against equivalent amounts that [WHICH] were first
20 credited and that [WHICH] are not already so charged. However, an
21 amount obligated for administration during a fiscal year specified in
22 this section may not be charged against any amount credited during
23 [SUCH] a fiscal year earlier than the 34th [24TH] preceding fiscal
24 year.

25 * Sec. 5. AS 23.20.195(a) is amended to read:

26 (a) If the contributions are unpaid after 30 days from the date
27 of mailing or personal delivery of a written demand for payment, the
28 department may [SHALL] assess and collect in the same manner as con-
29 tributions a penalty equal to the greater of 10 percent of the
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1 contributions due or \$10. [IN NO EVENT MAY THE PENALTY BE LESS THAN
2 \$1.]

3 * Sec. 6. AS 23.20.205(a) is amended to read:

4 (a) If the department finds that a contribution including inter-
5 est or penalty on the contribution is delinquent, the department may
6 issue a notice of assessment specifying the amount due and may serve
7 it on the delinquent employer. The notice must inform the employer of
8 the department's rights under (c) of this section. A peace officer or
9 an authorized representative of the department may serve the notice
10 personally or the department may mail the notice by certified or
11 registered mail with return receipt requested.

12 * Sec. 7. AS 23.20.205(c) is amended to read:

13 (c) Unless an appeal is filed under AS 23.20.220, if [IF] the
14 amount assessed is not paid within 30 days after personal service or
15 mailing of the notice as required by (a) of this section, the depart-
16 ment may [, SUBJECT TO AS 23.20.220,] collect the amount stated in the
17 assessment by the distraint, seizure, and sale of the property, goods,
18 chattels, and effects of the delinquent employer. Goods and property
19 exempt from execution under the laws of this state are exempt from
20 distraint and sale under this section.

21 * Sec. 8. AS 23.20.220(a) is amended to read:

22 (a) When a notice of assessment is delivered or mailed to a
23 delinquent employer, the employer may within 30 days file an appeal [A
24 PETITION] in writing with the department, stating that the assessment
25 is unjust or incorrect and requesting a hearing on it. The period for
26 filing an appeal may be extended for a reasonable period for good
27 cause. The appeal must [PETITION SHALL] set out the reasons the
28 assessment is objected to and the amount of contributions that [WHICH]
29 the employer admits is due, and must be accompanied by a bond or
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1 deposit of other security in the amount of the assessment to ensure
2 [INSURE] collection. The department may waive the security require-
3 ment if the employer submits proof of solvency or reasonable assur-
4 ance, as prescribed by regulations, that the contributions, interest,
5 and penalties due are not in jeopardy. If [NO PETITION IS FILED
6 WITHIN THE TIME PRESCRIBED, OR IF] the employer fails to provide the
7 required security, the collection under AS 23.20.205(c) is not stayed
8 [THE ASSESSMENT IS PRIMA FACIE CORRECT]. The department shall adopt
9 regulations for procedures for an appeal under this subsection [HOW-
10 EVER, THE DEPARTMENT MAY ENTERTAIN A SUBSEQUENT APPLICATION FOR RE-
11 FUND, AND, IF DENIED A REFUND, A HEARING ON THE APPLICATION IN ACCOR-
12 DANCE WITH AS 23.20.225].

13 * Sec. 9. AS 23.20.220(b) is amended to read:

14 (b) If the appeal is accompanied by the required security or the
15 department has waived the security requirement, filing an appeal
16 [FILING A PETITION] on a disputed assessment with the department stays
17 the sale provided for in AS 23.20.210 until a final decision on the
18 assessment is made. However, the filing of an appeal [A PETITION]
19 does not affect the right of the department to perfect a lien as
20 provided in AS 23.20.200.

21 * Sec. 10. AS 23.20.220(c) is amended to read:

22 (c) After granting the appellant [PETITIONER] reasonable oppor-
23 tunity for fair hearing, the department shall make a decision on the
24 appeal [PETITION]. The department's decision is final unless the
25 appellant [PETITIONER] initiates a proceeding for judicial review in
26 the manner provided by AS 23.20.445.

27 * Sec. 11. AS 23.20.225 is amended by adding a new subsection to read:

28 (e) The department shall adopt regulations providing for the
29 disposition of excess contributions paid to the unemployment
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1 compensation fund under AS 23.20.130. The regulations must be sub-
2 stantially similar to the provisions of AS 34.45.110 - 34.45.430.

3 * Sec. 12. AS 23.20.240(a) is amended to read:

4 (a) If after notice an employer defaults in the payment of
5 contribution or interest, the amount due may be collected by a person
6 authorized by law and authorized by the department, by civil action in
7 the name of the state, or by both methods. The department shall
8 include in the amount due the fees or costs charged the department by
9 the person for the collection of the delinquent amount. An [AND THE]
10 employer who is [IF FOUND] liable shall pay the cost of the collec-
11 tion, including collection fees charged, and the costs of legal
12 action.

13 * Sec. 13. AS 23.20 is amended by adding a new section to read:

14 Sec. 23.20.242. APPEALS BY OFFICER, MEMBER, OR EMPLOYEE. The
15 department shall permit each officer or employee of a corporation or a
16 member or employee of a partnership who is required to pay the contri-
17 butions and interest owed by the corporation or partnership under
18 AS 23.20.165 - 23.20.278 to appeal individually their duty to pay
19 under those sections.

20 * Sec. 14. AS 23.20.277(b) is amended to read:

21 (b) At the end of each calendar quarter, or at the end of any
22 other period as determined by the department, the department shall
23 bill each government entity, nonprofit organization, or group of
24 nonprofit organizations that [, WHICH] has elected to make payments in
25 place of contributions, for benefits paid during the quarter or other
26 prescribed period that are attributable to service in the employ of
27 the government entity, nonprofit organization, or group. In the case
28 of nonprofit organizations and groups of nonprofit organizations, the
29 amount billed is an amount equal to the full amount of regular
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benefits plus [ONE-HALF OF THE AMOUNT OF] extended benefits that are not reimbursable by the federal government. In [AND IN] the case of a government entity the amount billed is [WHICH HAS ELECTED TO MAKE PAYMENTS UNDER THIS SECTION] an amount equal to the full amount of the regular benefits plus the full amount of the extended benefits paid [DURING THE QUARTER OR OTHER PRESCRIBED PERIOD THAT IS ATTRIBUTABLE TO SERVICE IN THE EMPLOY OF THE NONPROFIT ORGANIZATION].

* Sec. 15. AS 23.20.277(e) is amended to read:

(e) At the end of each taxable year, the department shall determine whether the total of payments for the year made by a nonprofit organization or group of nonprofit organizations is less than, or in excess of, the total amount of regular benefits plus [ONE-HALF OF THE AMOUNT OF] extended benefits not reimbursable by the federal government paid to individuals during the taxable year based on wages attributable to service in the employ of the nonprofit organization or group. In [; AND IN] the case of a government entity that has elected to make payments under this section, the department shall determine whether the total of payments for the year is less than, or in excess of, the total amount of regular benefits plus the total amount of extended benefits as determined in this subsection. Each organization or group whose total payments for the taxable year are less than the amount so determined is liable for payment of the unpaid balance to the fund in accordance with (f) of this section. If the total payments exceed the amount so determined for the taxable year, all or part of the excess may, at the discretion of the department, be refunded from the fund or retained in the fund as part of the payments that [WHICH] may be required for the next taxable year.

* Sec. 16. AS 23.20.277(1) is amended to read:

(1) Each employer that is liable for payments in place of

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1 contributions shall pay to the department for the fund the amount of
2 regular benefits plus the [AMOUNT OF ONE-HALF OF] extended benefits
3 not reimbursable by the federal government paid to individuals that
4 are attributable to service in the employ of that employer. However,
5 a government entity that [WHICH] has elected to make payments under
6 this section is liable for the amount of regular benefits plus the
7 full amount of extended benefits that [WHICH] are attributable to
8 service in the employ of that entity. If benefits paid to an indi-
9 vidual are based on wages paid by more than one employer and one or
10 more of these employers is [ARE] liable for payments in place of
11 contributions, the amount payable to the fund by each employer that is
12 liable for payments shall be determined by the department in accor-
13 dance with regulations adopted by the department.

14 * Sec. 17. AS 23.20.340(b) is amended to read:

15 (b) Within one year from the date of the initial determination
16 of the weekly benefit amount and the maximum potential benefit amount
17 established under AS 23.20.350, the department shall reconsider only
18 the determination of the monetary amounts and shall issue a redeter-
19 mination amending the initial determination if it finds that an error
20 in computation or identity has been made or that additional wages
21 pertinent to the claimant's insured status have become available, or
22 that the initial determination resulted from a nondisclosure or mis-
23 representation of a material fact concerning the determination of
24 monetary amounts.

25 * Sec. 18. AS 23.20.378(c) is amended to read:

26 (c) An insured worker is disqualified for waiting-week credit or
27 benefits for a week of unemployment while the insured worker is pursu-
28 ing an academic education [ATTENDS AN ESTABLISHED SCHOOL IN A COURSE
29 OF STUDY PROVIDING ACADEMIC INSTRUCTION OF 10 OR MORE CREDIT HOURS PER
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WEEK, OR THE EQUIVALENT]. A disqualification under this subsection begins with the first week of academic instruction and ends with the week immediately before the first full week in which the insured worker is no longer pursuing an academic education. However, an insured worker who has been pursuing an academic education for at least one school term and who was working at least 30 hours a week during a significant portion of the time that the worker was pursuing an academic education is not disqualified for waiting-week credit or benefits under this subsection if the worker's academic schedule does not preclude full-time work in the worker's occupation and if the insured worker became unemployed because the worker was laid off or the worker's job was eliminated [ATTENDING CLASSES IF THE INSURED WORKER CERTIFIES THAT THE PERIOD OF NONATTENDANCE WILL LAST AT LEAST 60 DAYS]. In this subsection,

(1) "pursuing an academic education" means attending an established school in a course of study providing academic instruction of 10 or more credit hours per week, or the equivalent;

(2) [THE TERM] "school" includes primary schools, secondary schools, and institutions of higher education.

* Sec. 19. AS 23.20.379(c) is amended to read:

(c) The department shall reduce the maximum potential benefits to which an insured worker disqualified under [(a) OR (b) OF] this section would have been entitled by three times the insured worker's weekly benefit amount, excluding the allowance for dependents, or by the amount of unpaid benefits to which the insured worker is entitled, whichever is less.

* Sec. 20. AS 23.20.379(d) is amended to read:

(d) The disqualification required in (a) and (b) of this section is terminated if the insured worker returns to employment and earns at

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1 least eight times the insured worker's weekly benefit amount.

2 * Sec. 21. AS 23.20.379 is amended by adding a new subsection to read:

3 (e) An insured worker is disqualified for waiting-week credit or
4 benefits for the first week in which the insured worker is unemployed
5 and for the next 51 weeks of unemployment following that week or until
6 the individual has worked subsequent to the discharge from work and
7 earned 20 times the insured worker's weekly benefit amount in employ-
8 ment covered under this chapter if the insured worker was discharged
9 for commission of a felony or theft in connection with the work. In
10 addition, the insured worker is not eligible for extended benefits
11 under this chapter until the worker has requalified for benefits by
12 meeting the earnings requirement in this subsection.

13 * Sec. 22. AS 23.20.382(b) is repealed and reenacted to read:

14 (b) An otherwise eligible individual may not be denied benefits
15 or waiting-week credit for any week because the individual is in
16 training approved under 19 U.S.C. 2296(a)(1) (sec. 236(a)(1), Trade
17 Act of 1974), if

18 (1) while attending the training, the individual is not
19 available for work, fails to seek work, or refuses work; or

20 (2) the individual left work that was not suitable employ-
21 ment to enter training.

22 * Sec. 23. AS 23.20.382 is amended by adding a new subsection to read:

23 (d) An otherwise eligible individual may not be denied benefits
24 or waiting-week credit for any week because the individual is in any
25 training approved under 29 U.S.C. 1651 - 1658, as amended by P.L.
26 100-418, and, while attending the training, is not available for work,
27 fails to seek work, or refuses work.

28 * Sec. 24. AS 23.20.387(a) is amended to read:

29 (a) An insured worker is disqualified for benefits for the week
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1 with respect to which the false statement or misrepresentation was
2 made and for an additional period of not less than six weeks or more
3 than 52 weeks if the department determines that the insured worker has
4 knowingly made a false statement or misrepresentation of a material
5 fact or knowingly failed to report a material fact with intent to
6 obtain or increase benefits under this chapter. The length of the
7 additional [THIS] disqualification and the beginning date of that
8 [THE] disqualification shall be determined by the department according
9 to the circumstances in each case.

0 * Sec. 25. AS 23.20.390 is amended by adding a new subsection to read:

1 (f) In addition to the liability under (a) of this section for
2 the amount of benefits improperly paid, an individual who is disqual-
3 ified from receipt of benefits under AS 23.20.387 is liable to the
4 department for a penalty in an amount equal to 50 percent of the
5 benefits that were obtained by knowingly making a false statement or
6 misrepresenting a material fact, or knowingly failing to report a
7 material fact, with the intent to obtain or increase benefits under
8 this chapter. The department may, under regulations adopted under
9 this chapter, waive the collection of a penalty under this section.
10 The department shall deposit into the general fund the penalty that it
11 collects.

12 * Sec. 26. AS 23.20.526(a) is amended by adding a new paragraph to
13 read:

14 (23) service performed as an official at an amateur sports
15 event.

16 * Sec. 27. AS 23.20.530(a) is amended to read:

17 (a) In this chapter, "wages" means all remuneration for service
18 from whatever source, including, but not limited to, insured work,
19 noninsured work, or self-employment; commissions, bonuses, back pay
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1 and the cash value of all remuneration in a medium other than cash
2 shall be treated as wages; gratuities customarily received by an
3 individual in the course of service from persons other than the indi-
4 vidual's employing unit may be treated as wages received from the
5 employing unit only to the extent the individual reports the gratu-
6 ities to the employing unit. The reasonable cash value of remunera-
7 tion in a medium other than cash, and the reasonable amount of gratu-
8 ities, shall be estimated and determined in accordance with regula-
9 tions adopted by the department; notwithstanding AS 23.20.350(a), back
10 pay awards shall be allocated to the weeks or quarters with respect to
11 which the pay was earned. If the remuneration of an individual is not
12 based upon a fixed period of time or if the individual's wages are
13 paid in irregular intervals or in a manner that [WHICH] does not
14 extend regularly over the period of employment, the wages shall be
15 allocated to weeks or quarters in accordance with regulations adopted
16 by the department. The regulations must [SHALL], so far as possible,
17 produce results reasonably similar to those that [WHICH] would prevail
18 if the individual's wages were paid at regular intervals. When an
19 employer has filed for bankruptcy, unpaid wages earned for services
20 performed for the employer are considered wages for the quarter in
21 which they were earned.

22 * Sec. 28. AS 23.20 is amended by adding a new section to read:

23 Sec. 23.20.533. APPLICATION FOR DEMONSTRATION PROJECT. (a) The
24 Department of Labor shall pursue application with appropriate agencies
25 to qualify this state as a pilot state for demonstration programs
26 related to helping unemployed Alaskans regain employment, if adminis-
27 trative money is available to operate the project.

28 (b) The Department of Labor may waive provisions of this chapter
29 for individuals who participate in a demonstration project, to the
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1 extent required for the state to participate in the project.

2 * Sec. 29. AS 34.45.760(10) is amended to read:

3 (10) "intangible property"

4 (A) includes

5 (i) money, checks, drafts, deposits, interest,
6 dividends, and income;

7 (ii) credit balances, customer overpayments, gift
8 certificates, security deposits, refunds, credit memos,
9 unpaid wages, and unidentified remittances;

10 (iii) stocks and other intangible ownership inter-
11 ests in business associations;

12 (iv) money deposited to redeem stocks, bonds,
13 coupons, and other securities, or to make distributions;

14 (v) amounts due and payable under the terms of
15 insurance policies; and

16 (vi) amounts distributable from a trust or custo-
17 dial fund established under a plan to provide health, wel-
18 fare, pension, vacation, severance, retirement, death, stock
19 purchase, profit-sharing, employee savings, supplemental
20 unemployment insurance, or similar benefits;

21 (B) does not include

22 (i) unused airline tickets; [OR]

23 (ii) shares of stock issued by a corporation
24 organized under 43 U.S.C. 1601 - 1629a (Alaska Native Claims
25 Settlement Act) or unclaimed dividends payable on the
26 shares of stock; or

27 (iii) overpaid contributions by employers to the
28 unemployment compensation fund under AS 23.20.130;

29 * Sec. 30. AS 23.20.175(a), 23.20.175(b), 23.20.175(c)(1),
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1 23.20.350(f)(4), and 23.20.350(f)(5) are repealed.

2 * Sec. 31. Section 26 of this Act is retroactive to January 1, 1988.

3 * Sec. 32. Section 29 of this Act is retroactive to September 7, 1986.

4 * Sec. 33. Sections 11, 26, 29, 31, and 32 of this Act take effect
5 immediately under AS 01.10.070(c).

6 * Sec. 34. Except as provided in sec. 33, this Act takes effect July 2,
7 1989.