



ALASKA STATE LEGISLATURE SPONSOR STATEMENT

Sponsor: Representative Norman Rokeberg
Current Version: CSHB 182(FIN) (efd fld)
Contact: Heather Nobrega
Date: July 20, 2005

Title: An act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory 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, and for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act; and providing for an effective date.

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.

In addition to the confusing state statutes and regulations, often employers must also comply with the Federal wage and hour laws as well. HB 182 provides that we look to the federal Fair Labor Standards Act for the definitions of these terms, with the exception of the salary requirement, which shall be 2 times the minimum wage (ch 76 SLA 04). This will eliminate the need for many employers to have to comply with the two systems (state and federal) when dealing with these exemptions. The simplicity provided by referencing the federal 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. The definition of "supervisory capacity" in the regulations is also ambiguous, difficult to interpret and therefore rarely used. HB 182 removes this exemption from the statute.

Lastly, HB 182 provides that the provisions found in this bill will be applied to any litigation that is filed on or after the effective date of this bill. This requirement does not apply, however, to any claims or proceedings filed before the effective date.

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.

I urge your support of this legislation.