

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 THE “G” VERSION 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 CS 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 CS 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 CS, 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 CS, 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 CS, 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 CS, 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.