

**SENATE BILL NO. 12**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATOR WIELECHOWSKI

Introduced: 1/16/15

Referred: Prefiled

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the payment of sick leave by employers; and providing for an  
2 effective date."

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

4 \* **Section 1.** AS 23.10.055(a) is amended to read:

5 (a) The provisions of AS 23.10.050 - 23.10.060 and 23.10.065 - 23.10.150  
6 [AS 23.10.050 - 23.10.150] do not apply to

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

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

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

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

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

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

17 (7) an employee engaged in the delivery of newspapers to the  
18 consumer;

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

21 (9) an individual employed

22 (A) in a bona fide executive, administrative, or professional  
23 capacity;

24 (B) in the capacity of an outside salesman or a salesman who is  
25 employed on a straight commission basis; or

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

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

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

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

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

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

7 (13) an individual who drives a taxicab, is compensated for taxicab  
8 services exclusively by customers of the service, whose written contractual  
9 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch  
10 services are based on [UPON] flat contractual rates and not based on a percentage  
11 share of the individual's receipts from customers, and whose written contract with  
12 owners of taxicab vehicles, taxicab permits, or radio dispatch services specifically  
13 provides that the contract places no restrictions on hours worked by the individual or  
14 on areas in which the individual may work except to comply with local ordinances;

15 (14) a person who holds a license under AS 08.54 and who is  
16 employed by a registered guide-outfitter or master guide-outfitter licensed under  
17 AS 08.54, for the first 60 workdays in which the person is employed by the registered  
18 guide-outfitter or master guide-outfitter during a calendar year;

19 (15) an individual engaged in activities for a nonprofit religious,  
20 charitable, civic, cemetery, recreational, or educational organization where the  
21 employer-employee relationship does not, in fact, exist, and where services are  
22 rendered to the organization under a work activity requirement of AS 47.27 (Alaska  
23 temporary assistance program);

24 (16) an individual who

25 (A) provides emergency medical services only on a voluntary  
26 basis;

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

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

30 (17) a student participating in a University of Alaska practicum  
31 described under AS 14.40.065;

1 (18) an individual who is employed by a motor vehicle dealer and  
2 whose primary duty is to

3 (A) receive, analyze, or reference requests for service, repair,  
4 or analysis of motor vehicles;

5 (B) arrange financing for the sale of motor vehicles and related  
6 products and services that are added or included as part of the sale; or

7 (C) solicit, sell, lease, or exchange motor vehicles.

8 \* **Sec. 2.** AS 23.10 is amended by adding a new section to read:

9 **Sec. 23.10.062. Minimum paid sick leave.** (a) An employer shall provide to  
10 an employee who resides in the state and whose terms and conditions of employment  
11 are not subject to bargaining between the employer and a collective bargaining agent  
12 at least one hour of paid sick leave for every 40 hours the employee works. An  
13 employee who accrues paid sick leave may begin using it on a date agreed to by the  
14 employer or a date 90 days after the employee begins working for the employer,  
15 whichever occurs first. An employee may carry over unused paid sick leave from year  
16 to year.

17 (b) An employer is not subject to this section if the employer offers to each of  
18 its employees who reside in the state paid leave that

19 (1) accrues at a rate that is equal to or greater than one hour for every  
20 40 hours worked;

21 (2) may be carried over from year to year; and

22 (3) may be used as provided by this section.

23 (c) For the purpose of this section, a full-time employee who is exempt from  
24 the overtime requirements of 29 U.S.C. 213(a)(1) shall be considered to have worked  
25 40 hours for each full work week the employee completes.

26 (d) Subject to the limitations of this section, an employer shall permit an  
27 employee to use paid sick leave for

28 (1) the prevention, diagnosis, or treatment of the employee or a  
29 member of the employee's immediate family for a mental or physical illness, injury, or  
30 health condition;

31 (2) time the employee spends away from work because the employee

1 is the victim of a crime of sexual assault, domestic violence, or stalking for which a  
2 person has been arrested or formally charged.

3 (e) An employer who violates this section is subject to AS 23.10.110. An  
4 employer violates this section if the employer

5 (1) hinders or delays the commissioner or an authorized representative  
6 of the commissioner in the performance of a duty related to the enforcement of this  
7 section;

8 (2) refuses to admit the commissioner or an authorized representative  
9 of the commissioner to any place of employment as may be required for the  
10 enforcement of this section;

11 (3) refuses to make a record accessible, to furnish a sworn statement of  
12 the record, or to give information required for the enforcement of this section, upon  
13 demand, to the commissioner or an authorized representative of the commissioner;

14 (4) fails to post a summary or abstract of this section as required by  
15 AS 23.10.105; or

16 (5) discharges or in any other manner discriminates against an  
17 employee because the employee has filed a complaint, instituted or caused to be  
18 instituted a proceeding under or related to this section, or testified or is about to testify  
19 in a proceeding under or related to this section.

20 (f) In this section,

21 (1) "domestic partner" means a person who is cohabiting with another  
22 person in a relationship that is like a marriage but is not a legal marriage;

23 (2) "employer" means a person, other than a federal, state, or  
24 municipal government, who employs any combination of 15 or more full-time, part-  
25 time, and temporary employees who are compensated under an express or implied  
26 contract of hire that is verbal or written;

27 (3) "immediate family" means

28 (A) a spouse or domestic partner of the employee; or

29 (B) a parent, child, including a stepchild and an adopted child,  
30 and sibling of the employee if the parent, child, or sibling resides with the  
31 employee;

1 (4) "paid sick leave" means time that is compensated at the same  
2 hourly rate and with the same benefits that the employee would earn while working.

3 \* **Sec. 3.** AS 23.10.110(a) is amended to read:

4 (a) An employer who violates a provision of AS 23.10.060, 23.10.062, or  
5 23.10.065 is liable to an employee affected in the amount of unpaid minimum wages,  
6 unpaid sick leave, or unpaid overtime compensation, as the case may be, and, except  
7 as provided in (d) of this section, in an additional equal amount as liquidated damages.

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

10 APPLICABILITY. AS 23.10.062, enacted by sec. 2 of this Act, applies to

11 (1) work performed after September 30, 2015; and

12 (2) contracts formed after September 30, 2015.

13 \* **Sec. 5.** This Act takes effect October 1, 2015.