

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Tally Teal
Department of Labor & Workforce Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: January 18, 2018

RE: Filed Permanent Regulations: Department of Labor & Workforce Development

Department of Labor and Workforce Development regulations re: repeal of minimum wage exemption for persons with disabilities (8 AAC 15.120)

Attorney General File: JU2017200608
Regulation Filed: 1/17/2018
Effective Date: 2/16/2018
Print: 225, April 2018

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached page of regulation, repealing 8 AAC 15.120 Minimum wage exemption for persons with disabilities is adopted and certified to be a correct copy of the regulation change that the Department of Labor and Workforce Development adopts under the authority of AS 23.10.070 Exemption from minimum wage and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: 12/20/2017



Heidi Drygas, Commissioner DOLWD

FILING CERTIFICATION

I, Byron Mallott Lieutenant Governor for the State of Alaska, certify that on January 17, 2018, at 5 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: February 16, 2018

Register: 225, April 2018

Register 225, April 2018 LABOR AND WORKFORCE DEV.

8 AAC 15.120 is repealed:

8 AAC 15.120. Minimum wage exemption for person with disabilities. Repealed. (Eff.

12/9/78, Register 68; am 4/29/99, Register 150; repealed 2/16/2018, Register 225)

16 Publisher: Delete editor's notes that follow 18 AAC 15.120.))

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: January 17, 2018

File No.: JU2017200608

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Department of Labor and Workforce
Development regulations re: repeal of
minimum wage exemption for persons
with disabilities (8 AAC 15.120)

We have reviewed the attached regulations from the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated January 16, 2018 from the Regulations Attorney. The regulations repeal a section that provided a minimum wage exemption for persons with disabilities, and have the effect of eliminating subminimum wages for persons with disabilities.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The September 27, 2017 public notice and the December 20, 2017 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2017200608

January 17, 2018
Page 2

We have not made any corrections to the regulations themselves, but we have made some technical corrections to the header and footer of the regulations, and we have added an instruction to the publisher to delete obsolete editor's notes, in accordance with AS 44.62.125 and as shown on the attached copy.

SCW

cc w/enc: (via email)

Hon. Heidi Drygas, Commissioner
Department of Labor and Workforce Development

Natalie "Tally" Teal, Special Assistant and Regulations Contact
Department of Labor and Workforce Development

John Cannon, Director
Division of Vocational Rehabilitation
Department of Labor and Workforce Development

Rachel Witty, Assistant Attorney General
Labor and State Affairs Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: January 16, 2018

FILE NO.: JU2017200608

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Department of Labor and
Workforce Development
regulations re: repeal of minimum
wage exemption for persons with
disabilities (8 AAC 15.120)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGES ON MINIMUM WAGE EXEMPTION FOR PERSONS
WITH DISABILITIES IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND
WORKFORCE DEVELOPMENT

BRIEF DESCRIPTION

The Department of Labor and Workforce Development proposes to change regulations on minimum wage exemption for persons with disabilities.

The Department of Labor and Workforce Development proposes to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with minimum wage exemption for persons with disabilities, as follows:

- (1) 8 AAC 15.120 is proposed to be repealed. The intended effect of this repeal is to eliminate the minimum wage exemption for persons with disabilities.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Department of Labor and Workforce Development, Division of Vocational Rehabilitation at P.O. Box 115516, Juneau, AK 99811. Additionally, the Department of Labor and Workforce Development will accept comments by facsimile at 907-465-2856 and by electronic mail at John.Cannon@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the comment link. The comments must be received not later than 5:00 p.m. on Wednesday, November 15, 2017.

You may submit written questions relevant to the proposed action to the Department of Labor and Workforce Development, Division of Vocational Rehabilitation at P.O. Box 115516, Juneau, AK 99811. The questions must be received at least 10 days before the end of the public comment period. The Department of Labor and Workforce Development will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the agency website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Cannon at John.Cannon@alaska.gov and 907-465-2814 not later than Tuesday, October 31, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting John Cannon at John.Cannon@alaska.gov and 907-465-2814.


After the public comment period ends, the Department of Labor and Workforce Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 23.10.070

Statutes being implemented, interpreted, or made specific: AS 23.10.070

Fiscal information: The proposed regulation change is not expected to require an increased appropriation.

Date: September 19, 2017



Heidi Drygas, Commissioner
Department of Labor and Workforce Development

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Labor and Workforce Development
2. General subject of regulation: Minimum wage exemption for persons with disabilities
3. Citation of regulation: 8 AAC 15.120
4. Department of Law file number: JU2017200608

5. Reason for the proposed action: the Department of Labor and Workforce Development, Division of Vocational Rehabilitation recommends that 8 AAC 15.120 Minimum wage exemption for persons with disabilities be repealed. No Department of Labor and Workforce Development Commissioner has ever exercised this authority. There are currently only six Alaskan 14(c) employers who received authorization by the United States Department of Labor, Wage and Hour Division under AS 23.10.070 to pay subminimum wage to persons with disabilities. Of these, four employers no longer use the exemption. The remaining two employers currently pay subminimum wages to only about 20 Alaskan workers with disabilities. Further, the need for subminimum wage employment for persons with disabilities is being seriously questioned both nationally and in Alaska. Current experience demonstrates that, with support, persons with disabilities can work at typical jobs in typical work places at minimum wage or higher. The practice of paying subminimum wage to persons with disabilities under the Fair Labor Standards Act or under AS 23.10.070 was historically viewed as necessary and even progressive. However, subminimum wages are now considered incompatible with current knowledge, practice, and experience.

6. Appropriation/Allocation: Division of Vocational Rehabilitation/Client Services-1828

7. Estimated annual cost to comply with the proposed action to:

A private person: none
Another state agency: none
A municipality: none

8. Cost of implementation to the state agency and available funding: there are no expected costs in FY 2018 or in subsequent years

9. The name of the contact person for the regulation:

John Cannon
Director, Division of Vocational Rehabilitation
PO Box 115516
Juneau, AK 99811
907-465-6927
John.Cannon@alaska.gov

10. The origin of the proposed action: Staff of state agency, as well as state and national advocacy and disability-rights groups.

11. Date: 9/21/17 Prepared by: John Cannon

John Cannon
Director, Division of Vocational Rehabilitation
907-465-6927

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Natalie Teal, Legislative Liaison, of the Alaska Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 8 AAC 15.120 relating to minimum wage exemption for persons with disabilities has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to appropriate state officials;
- (3) furnished to the Department of Law, along with a copy of the proposed regulation;
- (4) furnished electronically to incumbent State of Alaska legislators;
- (5) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (6) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (7) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

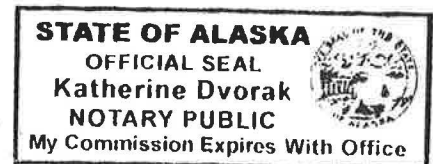
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (4) and (5) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: December 20, 2017


Natalie Teal, Legislative Liaison

Subscribed and sworn to before me at DOLWD Juneau on 20 December 2017.


Notary Public in and for the State of Alaska



AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, John Cannon, Director of the Division of Vocational Rehabilitation, of the Alaska Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 8 AAC 15.120 relating to minimum wage exemption for persons with disabilities has been given by being furnished to interested persons

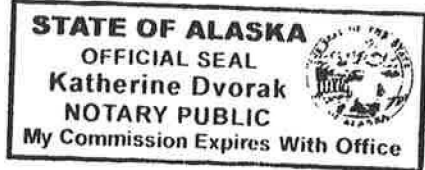
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons.

Date: December 20, 2017

John Cannon
John Cannon, Director

Subscribed and sworn to before me at DOUG JUNAY on 20 December 2017.

K Dvorak
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, John Cannon, Director of the Division of Vocational Rehabilitation for the Department of Labor and Workforce Development, being duly sworn, state the following:

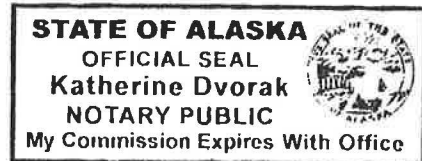
In compliance with AS 44.62.215, the Department of Labor and Workforce Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Labor and Workforce Development regulation on subminimum wage exemption for persons with disabilities.

Date: December 20, 2017

John Cannon
John Cannon, Director

Subscribed and sworn to before me at Douglas Junction on
20, December, 2017.

K Dvorak
Notary Public in and for the State of Alaska



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Administrative
Services

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

September 27, 2017

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed Joleesa Stepetin

Subscribed and sworn to before me
this 28th day of September, 2017

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019

NOTICE OF PROPOSED CHANGES ON MINIMUM WAGE EXEMPTION FOR PERSONS WITH DISABILITIES IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

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Statutory authority: AS 23.10.070

Statutes being implemented, interpreted, or made specific: AS 23.10.070

Fiscal information: The proposed regulation change is not expected to require an increased appropriation.

Heidi Drygas, Commissioner
Department of Labor and Workforce Development

Published: September 27, 2017

Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019