

Nancy Dahlstrom  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




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

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Theric Austin, Department of Labor and Workforce Development

**FROM:** April Simpson, Office of the Lieutenant Governor 465.4081 

**DATE:** June 28, 2023

**RE:** Filed Permanent Regulations: Department of Labor and Workforce Development

Department of Labor and Workforce Development regulations re: minimum wage and overtime deductions for board and lodging (8 AAC 15.160)

---

Attorney General File:	2023200037
Regulation Filed:	6/28/2023
Effective Date:	7/28/2023
Print:	247, October 2023

cc with enclosures: Colleen Bailey, Department of Law  
Judy Herndon, LexisNexis



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110000  
Juneau, Alaska 99811  
Main: 907.463.3600  
Fax: 907.463.1520

June 23, 2023

The Honorable Nancy Dahlstrom  
Lieutenant Governor  
State of Alaska  
P.O. Box 110015  
Juneau, AK 99811-0015

Re: 2023200037 - Department of Labor and  
Workforce Development; amendment to 8 AAC  
15.160; minimum wage and overtime  
deductions for board and lodging.

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. Based upon our review, 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 Department of Labor and Workforce Development adopted the regulations after the close of the public comment period. The regulations amend 8 AAC 15.160(d) to establish requirements for an employer and employee to enter into an agreement to deduct pay as compensation for board or lodging provided. The regulations update terminology, require written notice and acceptance regarding the condition of the board or lodging, require that the department determine whether the deductions are without profit to the employer, and add an appeal process for an employer aggrieved by a decision on a related request issued by the director of labor standards and safety.

Both the May 15, 2023 public notice and the June 16, 2023 adoption order state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

To: The Honorable Nancy Dahlstrom  
Our file: 2023200037

June 23, 2023  
Page 2 of 2

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are incorporated into the enclosed copy of the regulations.

Sincerely,

TREG R. TAYLOR  
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**  
Rebecca C. Polizzotto  
Chief Assistant Attorney General  
Legislation, Regulations, and  
Legislative Research Section

Digitally signed by  
Rebecca C. Polizzotto  
Date: 2023.06.23  
10:19:22 -08'00'

RCP:bws

CC w/enclosure: Theric Austin, Regulations Specialist 2  
Department of Labor and Workforce Development

Ned Brasington, Assistant Attorney General  
Department of Law

Brad Sharp, Assistant Attorney General  
Department of Law

Steven C. Weaver, Assistant Attorney General  
Department of Law

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

The attached 3 pages of regulations, dealing with changes to the room and board, are adopted and certified to be a correct copy of the regulation changes that the Department of Labor Workforce & Development adopts under the authority of AS 23.10.085 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.

Although no public comments were received, the Department of Labor Workforce & Development paid special attention to the cost to private persons of the regulatory action being taken. <sup>1</sup>

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor on June 28, 2023, as provided in AS 44.62.180.


Date: 6/16/23

  
\_\_\_\_\_  
Catherine Munoz, Acting Commissioner

*April Simpson for*

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on June 28, 2023, at 12:03 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

*for*   
\_\_\_\_\_  
Nancy Dahlstrom, Lieutenant Governor

Effective: July 28, 2023

Register: 247, October 2023

<sup>1</sup> For Department of Environmental Conservation regulations related to control, prevention, and abatement of air, water, or land or subsurface land pollution, the Department of Law recommends the addition of the following sentence: "The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action as required by AS 46.03.024."

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.**



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

8 AAC 15.160(d) is amended to read:

(d) An employer may deduct an amount from the minimum wage or overtime rates set out under AS 23.10 of an employee's earnings [, BASED ON A WRITTEN AGREEMENT SIGNED BY THE EMPLOYEE,] to reimburse an employer for the reasonable cost of furnishing board or [AND] lodging, if

(1) [REPEALED 5/16/2003;

(2)] the board or [AND] lodging facilities of the employer are “customarily” furnished, as described in 29 C.F.R. 531.31, by the employer [AND VOLUNTARILY USED BY THE EMPLOYEES; AND];

(2) [(3)] the cost to the employee for the use of the employer's board or [AND] lodging facilities is reasonable and without profit to the employer as determined by the department;

(3) the employer has provided the employee prior written notice that

(A) provides a basic description of the board or lodging;

(B) states the amount to be deducted weekly for the board or lodging;

and

(C) states that the employee's acceptance of the board or lodging and deduction is voluntary; and

(4) the employee has provided signed and written acceptance of the board or lodging and deduction.

8 AAC 15.160(e) is amended to read:

(e) Unless the employer has provided [AND] the employee the prior written notice

[HAVE EXECUTED A WRITTEN AGREEMENT AS] described in **(d)(3) of this section**, [(d) OF THIS SECTION, BEFORE THE DEDUCTION,] the employer is prohibited **from taking a deduction or** from seeking to retroactively deduct the cost of board **or** [AND] lodging as an offset against wages due upon termination or wage deficiencies subject to collection by the department.

8 AAC 15.160(f) is amended to read:

(f) The director will make the determination under **(d)(1) of this section** [(d)(3) OF THIS SECTION. THE DETERMINATION WILL BE MADE] in accordance with **29 C.F.R. 531.29 - 531.35**; [29 C.F.R. 531.3 - 531.5 AND 531.29 - 531.35. A] **a** deduction of **\$20** [\$15] per day or less for board **or** [AND] lodging will not require a [SPECIAL] determination **by the director**[,] unless evidence indicates that the **deduction** [CHARGE] is unreasonable for the **board or lodging** [FACILITIES] provided or results in a profit to the employer.

8 AAC 15.160(h) is amended to read:

(h) An employer shall give each employee a written or electronic statement of earnings and deductions for each pay period. The statement of earnings and deductions must contain the employee's

- (1) rate of pay;
- (2) gross wages;
- (3) net wages;
- (4) beginning and ending dates of the pay period;
- (5) repealed 9/28/85;
- (6) repealed 9/28/85;

- (7) federal income tax deductions;
- (8) Federal Insurance Contribution Act deductions;
- (9) Alaska Employment Security Act contributions;
- (10) board or [AND] lodging deductions [COSTS];
- (11) advances;
- (12) straight time and overtime hours actually worked in the pay period; and
- (13) other authorized deductions.

8 AAC 15.160 is amended by adding new subsections to read:

(i) An appeal of a determination made by the director under this section must

(1) be filed with the commissioner not later than 20 days after the employer received the determination;

(2) be in writing; and

(3) set out the specific reasons for the appeal.

(j) The commissioner will grant or reject an appeal under (i) of this section not later than 20 days after the date the employer filed it; in the decision to grant or reject the appeal, the commission will state that the decision is final and include a statement of the employer's right to request judicial review not later than 30 days after the decision. (Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150; am 5/16/2003, Register 166; am 3/2/2008, Register 185; am

7 / 20 / 2023, Register 247)

**Authority:** AS 23.05.060            AS 23.10.065            AS 23.10.095  
                 AS 23.10.060            AS 23.10.085