



May 6, 2025

Dear Employer,

The Alaska Department of Labor and Workforce Development, Wage and Hour office (Department) has developed this letter to provide clarity to some of the most common labor laws as they pertain to the restaurant industry. For the purpose of education, this letter is being made available as an industry-wide notice to inform employers and employees of these requirements. The issues that have been most frequently found in the questions, complaints and subsequent enforcement activities are:

- The passage of Ballot Measure 1 in the 2024 general election and Alaska's adoption of laws guaranteeing paid sick leave to most employees;
- Minimum Wage and Overtime
- Salary
- Tips, Fees, Gratuities and Service Charges
- Minor Employees and Child Labor
- Written Hiring Agreements and Changes in the Rate of Pay
- Accurate Record of Hours Worked
- Employee Records
- Final Paycheck

Again, this letter has been developed for the purpose of education and addresses questions, complaints and misunderstandings often found within the restaurant industry. We will address each of these issues in this letter and we are always available to discuss any follow-up questions you may have.

### **Paid Sick Leave**

Following the passage of Ballot Measure 1 in the 2024 General Election, Alaska has adopted laws guaranteeing paid sick leave to most employees. Alaska's paid sick leave laws will go into effect on July 1, 2025. All covered employees will accrue sick leave at the same rate, 1 hour per

every 30 hours worked. These hours worked are cumulative. The hours counted for salary-exempt employees may be limited to 40 hours per week.

The amount of paid sick leave that can be accrued and used in a year is capped depending on the number of employees an employer has. While accrual and usage are capped, the sick leave balance is not capped. Unused sick leave must be carried forward into the next year.

Employers who have existing paid time off programs need to review their policies to assure they meet the minimum standards established by the new law. Employers are free to offer a more generous plan to their employees if they choose.

Employers are prohibited from interfering with, restraining, or denying the use of paid sick leave. They cannot require employees to find coverage for missed shifts or take adverse actions against employees for the usage of paid sick leave. Documented verification of the need for paid sick leave, such as a doctor's note, can only be requested for paid sick leave usage of more than three consecutive workdays and must comply with statutory requirements.<sup>1</sup>

The Department has published frequently asked questions to aid with the understanding of Alaska's new sick leave laws and has provided a link to the ballot measure language. These can be found at: <https://labor.alaska.gov/lss/ballot-1-faq-2025.html>.

### **Minimum Wage and Overtime**

Except as otherwise provided for in law, an employer shall pay to each employee a minimum wage, for all hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise. Federal law allows for a subminimum wage to be paid to tipped employees under certain circumstances; no such exemption exists under Alaska's wage and hour laws.

The current Alaska minimum wage is \$11.91 per hour as of January 1, 2025. As of July 1, 2025, the minimum wage will increase to \$13.00 due to the passage of Ballot Measure 1 in 2024. Alaska's minimum wage is subject to annual adjustment using the Consumer Price Index for the previous calendar year.

Barring any allowable exemptions, an employee who works over 8 hours in a day and/or more than 40 straight-time hours in a week must be paid 1.5 times their regular rate of pay<sup>2</sup> (this requirement of the law is referred to as "overtime"<sup>3</sup>). Furthermore, if an employee is paid multiple rates of pay the overtime is to be calculated by using a weighted average formula unless there is an established agreement to pay overtime at 1.5 times the rate of pay for the type of worked being performed during overtime hours.<sup>4</sup>

Starting January 1, 2028, the minimum wage will be adjusted annually for inflation based on the Consumer Price Index. Ballot Measure 1 only changes the minimum wage rate, it does not change to whom the minimum wage applies.

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<sup>1</sup> AS 23.10.067

<sup>2</sup> 8 AAC 15.100

<sup>3</sup> AS 23.10.060

<sup>4</sup> 29 CFR §778.419

## **Salary**

***Payment on a salary basis does not eliminate overtime requirements.*** Individuals who are paid on a non-exempt salary basis must be paid in a manner consistent with the minimum wage and overtime requirements of the *Alaska Wage and Hour Act*.

Non-exempt employees must be paid overtime. If a fixed and recurring pay rate for a set period of time such as weekly or monthly (salary) has been established, “the applicable compensation basis must be converted to an hourly rate when determining the regular rate for computing overtime compensation and a written contract must be provided showing the hourly rate, the overtime rate, and the fixed number of hours worked each week to arrive at the specified, fixed salary amount. If the contract fails to establish a fixed number of daily and weekly hours that the salary is intended to compensate, or if the actual hours of work deviate from the hours specified in the contract without a corresponding adjustment in hourly pay, the salary will be considered to be compensation for an eight-hour workday and 40-hour workweek, and overtime will be computed on that basis.”<sup>5</sup>

Executive chefs, sushi chefs, and other culinary professionals are not specifically or automatically exempt from overtime requirements and must meet the three-pronged test set out by the *Fair Labor Standards Act* of salary basis (fixed base pay), salary level (amount of pay), and duties (work performed).<sup>6</sup> Dependent on the duties of the employee, they may qualify for the Executive or Professional salary exemptions. It is vital employees are properly classified as improperly classifying an employee as salary exempt carries potential liabilities such as overtime violations which can carry stiff penalties. For more guidance on salary exemption, visit the U.S. Department of Labor, Wage and Hour Division Fact Sheets 17B and 17D at <https://www.dol.gov/agencies/whd/fact-sheets> and AS 23.10.055 located in our *Pamphlet 100* publication at <https://www.labor.alaska.gov/lss/forms/pam100.pdf>.

**Note:** To determine if an employee meets the exemptions from Alaska’s minimum wage and overtime requirements based on work in a bona fide executive, administrative, or professional capacity, consult the *Code of Federal Regulations 29 C.F.R. § 541*, *Alaska Statute 23.10.055*, and *Alaska Administrative Code 8 AAC 15.908*, or contact the Wage and Hour office in your region.

## **Tips, Fees, Gratuities and Service Charges**

Alaska law defines a tip as an amount of cash, or an amount designated as a “tip” by a credit card customer on a credit card charge slip, that is determined, and freely given, by a customer in recognition of an employee’s service to that customer<sup>7</sup>. Crucially, a tip must be freely given.

Employers should be aware that any service charges, gratuities, or other fees that are charged to a customer by the business, are not tips. The employer has complete discretion in how these monies are used. Any share of such monies that an employee receives must be accounted for distinctly from tips and counted towards their regular rate of pay when determining overtime wages on a weekly basis.<sup>8</sup>

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<sup>5</sup> 8 AAC 15.100

<sup>6</sup> 29 CFR §541

<sup>7</sup> 8 AAC 15.907

<sup>8</sup> FOH 30d17

Alaska law prohibits employers, managers, and supervisors from retaining any portion of an employee's tips.<sup>9</sup> Tips may be handled by employers, managers, and supervisors for the purpose of redistributing tips under a tip pooling arrangement. Pooled tips must be distributed to employees daily, unless the tip pool identifies that the tips will be held until the next scheduled payday. If the employer is to hold tips until payday the employer must provide the employee with a written accounting of tips provided by the customers daily.

Under the Alaska law, when tips are charged to a customers' credit card and the employer can show that it pays the credit card company a transaction fee based on a percentage of the sale, the employer may pay the employee the tip, less that percentage as applied to the tip amount.

In other words, where a credit card company charges an employer a 3% transaction fee, the employer may reduce the employees tip based on 3% of the tipped amount. For example, if a customer had a bill in the total amount of \$100 comprised of \$90 in food charges and \$10 as a tip, the employer could withhold 30¢ from the employee tip to offset the portion of the transaction fee used in the transaction to deliver the tip to the employee. To be clear, the employer cannot withhold \$3 from the employee tips to cover the transaction fee for the entire bill.

### **Minor Employees and Child Labor Regulations**

Minors ages 14-16 must have a work permit on file with the Department before they start working. Minors ages 14-15 are prohibited from working in establishments that sell alcohol. Minors ages 16-17 with an approved minor work permit on file can work for an employer that is licensed to sell alcohol. 17-year-olds only require work permits when they are employed at a licensed establishment.

### **Breaks**

All minors under the age of 18 are required to get a 30-minute break if they are scheduled to work six (6) consecutive hours or more. The break must occur after the first hour and a half of work and before the fifth hour of work commences. The breaks should be recorded on timesheets or a break log. This recording should accurately reflect the start and stop time of the break so that an employer can demonstrate the duration of the break. Breaks cannot be divided into segments. Again, the break must be a full 30 minutes to meet the requirements of the law.

All minors must have one day off per week.

### **Hours when school is in session**

When school is in session, minors ages 14-15 are limited to a total of nine (9) hours of school attendance plus employment on any one day. Work can only be performed between the hours of 5:00 a.m. to 9:00 p.m. and total hours worked will be limited to 23 hours in any week. Please note that federal law is stricter as the cutoff time is 7:00 p.m.<sup>10</sup> There are no hourly restrictions for minors ages 16-17. Homeschooled minors are viewed the same as minors attending public school; so, the hours in which school is considered to be in session are based on the operating hours of the local school district.

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<sup>9</sup> 8 AAC 15.907

<sup>10</sup> 29 CFR §570.35(a)

## **Hours when school is not in session**

When school is not in session, work hours for minors ages 14-15 will be limited to 40 hours per week between the hours of 5:00 a.m. to 9:00 p.m. There is still no hourly restriction for minors ages 16-17.

## **Hazardous Occupation Order 11 (HO11)**

The U.S. Department of Labor has issued 17 HOs detailing occupations and equipment that all minors are prohibited from performing or using.

HO 11: Power-driven bakery machine occupations – this HO prohibits all minors from operating bakery machines to include both horizontal and vertical dough mixers, batter mixers, bread machines, dough breaks, dough sheeters, bread slicers, cake band saws, and cookie/cracker machines. Limited exceptions apply to HO 11. One such exception is that minors ages 16-17 may operate household mixers such as a Kitchen Aide mixer but minors ages 14-15 are still prohibited from operating these machines.

### **Baking**

Minors ages 14-15 are prohibited from all baking activities. This prohibition is extremely expansive and includes assisting in any step throughout the baking process. This includes assembling pizzas; finishing or icing baked products; weighing, measuring, or mixing ingredients; or assembling items on trays even if older employees accomplish the actual baking. This age group is also prohibited from operating almost all ovens and any microwaves that can heat food above 140 degrees Fahrenheit.

### **Cooking**

Minors ages 14-15 are generally prohibited from cooking but may perform certain authorized activities. These minors may cook on solid surface electric and gas grills that do not have open flames. They also may use deep fryers that automatically raise and lower the basket in and out of the grease. They may not operate manual fryers. They also may not use rotisseries, broilers, pressurized equipment such as fryolators, and other extremely high temperature devices.

### **Equipment**

In general, minors ages 14-15 are prohibited from operating power-driven equipment. They are specifically allowed to operate dishwashers, pop-up and conveyer belt style toasters (not toaster ovens), popcorn poppers, smoothie/milk shake blenders, coffee grinders, automatic coffee/espresso machines, food warmers/heat lamps, cotton candy machines, and snow cone machines. In addition, minors ages 14-15 cannot use ladders, scaffolds, or their substitutes. A one- or two-step footstool or stepladder is acceptable.

Minors ages 14-15 are prohibited from using sharpened tools. This is defined as any knives or implements that are used for processing meat and fish such as butcher's, boning, or filet knives. Sandwich knives and kitchen knives are acceptable.

If you have questions about specific equipment, we encourage you to consult the USDOL Field Operations Handbook Chapter 33 or contact Wage and Hour for additional information.

### **Written Hiring Agreements and Changes in the Rate of Pay**

Under Alaska Labor Law, employers must provide all employees with a written hiring agreement. This must include their rate of pay, where they receive payment, and the established payday which cannot occur less frequently than once per month (i.e. daily, weekly, bi-weekly, or monthly). Any time the employer elects to make a change, they must provide the employee with written notification of the change no later than on the payday before the time of change. The change cannot be made in the middle of a pay period and cannot be retroactive.<sup>11</sup>

### **Accurate Record of Hours Worked**

An employer shall keep an accurate record of all the daily and weekly hours worked by each employee.<sup>12</sup> This recordkeeping requirement applies to all employees regardless of how they are compensated or how they are classified to include salary-exempt employees. A mere record of hours scheduled may not be sufficient to account for all the hours actually worked by the employee. As a best practice, employees should also keep a record of hours separately from their employer's so they can check the employer's accounting for accuracy at the time of payment. This record could also serve as evidence of hours worked in the event a dispute over wages occurs. The burden to keep hours is borne by the employer under statute. Requiring an employee to keep a timesheet does not absolve an employer of this responsibility.

### **Employee Records**

There are additional records that Alaskan employers are required to keep for all employees they employ.<sup>13</sup> The following basic records must be maintained by the employer for a period of at least three years:

1. Employee's full name and social security number
2. Employee's address, including zip code
3. Employee's occupation
4. Employee's birth date, if younger than 19
5. Employee's sex
6. Beginning and ending dates of the pay period
7. Total hours employee worked each day
8. Total hours employee worked each workweek
9. Basis on which employee's wages are paid (e.g., "\$14 per hour", "\$560 a week")
10. Employee's regular rate of pay
11. Total straight-time and overtime hours employee actually worked in the pay period
12. Employee's total daily or weekly straight-time earnings
13. Employee's total overtime earnings for the workweek
14. All additions to or deductions from the employee's wages, to include federal income tax deductions, Federal Insurance Contribution Act (FICA) deductions, Alaska

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<sup>11</sup> AS 23.05.160

<sup>12</sup> AS 23.05.080

<sup>13</sup> 8 AAC 15.900

- Employment Security Act (ESC) deductions, board and lodging costs (if applicable), advances on pay, and all other authorized deductions
15. Total gross and net wages paid each pay period
  16. Date of payment for each pay period
  17. Sick leave (mandatory as of July 1, 2025)

These records shall be furnished to an authorized representative of the Department upon request.<sup>14</sup>

### **Final Paycheck**

If the employment is terminated by the employee, payment is due at the next regular payday that is at least three days after the employer received notice of the employee's termination of services. If employment is terminated by the employer, regardless of the cause of the termination, payment is due within three working days after the termination.<sup>15</sup> The day of termination, weekends, and bank or state holidays, are not included in these three days. Final paychecks are to be provided to the employee in the same manner that they normally receive them unless the hiring agreement states otherwise. However, an employer and an employee may reach a mutual agreement to have them provided by other means. If final paychecks are mailed, as a best practice the employer should verify the employee's address before sending the final paycheck and pay statement.

Employers may not hold an employee's final paycheck regardless of real or perceived debts owed to the employer, unless the deduction is authorized in writing and comports with *Alaska Administrative Code 8 AAC 15.160*.

Where an employer violates this statute, the employer may be required to pay the employee a penalty in the amount of the employee's regular wage, salary or other compensation from the time of demand to the time of payment, or for 90 working days, whichever is the lesser amount.<sup>16</sup>

### **Workers' Compensation Coverage**

Any business operating in Alaska with even one part-time employee is required to carry workers' compensation insurance under Alaska Statute 23.30.075. The policy must be bound in the State of Alaska; Alaska is not a reciprocal state and does not recognize coverage bound in any other state or country, even if the policy purports to cover an injury occurring in Alaska. There is no exemption for family members or friends for purposes of workers' compensation liability. Employee status is determined using the independent contractor definition found in Alaska Statute 23.30.230(a)(12). The criteria in this definition are all-inclusive. Penalties for not having workers' compensation coverage are severe. It is a crime under the Alaska Workers' Compensation Act for employers to misclassify employees or deduct all or any portion of workers' compensation premiums from an employee's paycheck. If you have questions regarding workers' compensation requirements, please download and review the Employer's Guide to the Alaska Workers' Compensation Act at [https://labor.alaska.gov/wc/publications/employer\\_guide\\_to\\_wc\\_act.pdf](https://labor.alaska.gov/wc/publications/employer_guide_to_wc_act.pdf) or contact the Alaska Division of Workers' Compensation at (907) 269-4980.

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<sup>14</sup> 33c10(a)

<sup>15</sup> AS 23.05.140

<sup>16</sup> AS 23.05.160

## **Alaska Occupational Safety and Health**

All employees in Alaska have the right to a safe and healthy work environment under Alaska Statutes 18.60.10 through AS 18.60.105. Alaska Occupational Safety and Health (AKOSH) enforces these standards through inspections of workplaces. Some of the most commonly found serious hazards are unguarded or improperly guarded machinery, insufficient Lock-out Tag-out work practices and insufficient safety training. Often times, safety related training is not offered in all languages spoken by employees. AKOSH may inspect a workplace based on an employee complaint, report of a workplace injury, or through emphasis programs. Employees have the right to submit workplace safety concerns to the Occupational Safety and Health Administration (OSHA) or AKOSH by phone, online or in person. Names of complainants are confidential and are not disclosed to employers. Furthermore, both State and Federal law prohibit employers from retaliating or discriminating against employees who exercise their safety and health rights by filing complaints with management, AKOSH or OSHA (AS 18.60.089). Finally, employers are required to verbally report any workplace accident that results in a death, amputation, loss of eye or inpatient hospitalization within 8 hours to AKOSH (AS 18.60.58).

### **Resources**

In conclusion, a business that is involved in practices that are not consistent with Alaska wage and hour laws must correct the discrepancies immediately to avoid future enforcement actions. We hope that your organization will take this opportunity to conduct an internal review and voluntarily make any wage adjustments. We have noted several applicable statutes and regulations for your review. Employers are encouraged to conduct a complete review of Alaska's wage and hour laws and regulations as published in the *Pamphlet 100* publication, which can be found at: <https://labor.alaska.gov/lss/forms/pam100.pdf>. Our website can be found at: <https://labor.alaska.gov/lss/whhome.htm>.

The Wage and Hour office provides a cost-free counseling service to Alaska employers, and we invite you to take advantage of this service. A regular, monthly webinar is offered to employers and employees concerning wage and hour laws. Check our website for the webinar schedule and contact our office at (907) 269-4900 for registration. In addition, an investigator is on duty each business day to answer any questions you may have.