

State of Alaska, Department of Labor and Workforce Development, Wage and Hour

Truck Driver FAQ

1. What is the Little Davis Bacon Act, and how is it different from the Davis Bacon Act?

The Little Davis Bacon Act (LDBA) is a set of state laws in Alaska Statutes Title 36, which establishes prevailing wages and associated requirements for labor on public construction contracts awarded for the State of Alaska, or a political subdivision of the state that exceed \$25,000.00.

The Davis Bacon Act (DBA) is a set of federal laws applicable to federal public construction projects that exceed \$2,000.00. Some projects may be subject to both state and federal requirements. In these cases, construction contractors should comply with the most stringent provisions of both sets of laws.

The Department of Labor and Workforce Development, (DOLWD) publishes the prevailing wages required in the LDBA twice per year at: <http://www.labor.alaska.gov/lss/pamp600.htm>

2. When am I entitled to State Prevailing Wages?

A truck driver is entitled to prevailing wages when they perform work “on-site,” a public construction project. “On-site” work areas include but are not limited to fabrication plants, mobile factories, batch plants, borrow pits, rock quarries, job headquarters and tool yards.

Truck drivers are also entitled to prevailing wages for all round trip truck driving activities, including mobilization and demobilization activities. There are specific exceptions for employees of bona fide material suppliers and common carriers who perform mere delivery.

3. Are employees who drive a truck for a “bona fide material supplier” or “common carrier,” entitled to State Prevailing Wages?

No, unless they perform work other than mere delivery, such as stocking materials on floors, in buildings or in multiple locations, or perform construction activities while “on-site” the public construction contract.

4. What is a “Bona Fide Material Supplier”?

Bona fide material suppliers are viewed as an established enterprise with a permanent source of materials, rather than an enterprise who purchases the material from another source and transports that material to a project. The ability to supply the material as advertised and contracted for is not the governing factor used to determine the validity of a bona fide material supplier. A bona fide material supplier serves the public in general, and supplies sand, gravel, ready mix concrete, hot asphalt, or other construction material to both public and private entities. A bona fide material supplier’s existence or operation is NOT dedicated exclusively or nearly so to one or more public construction projects.

5. What is a “Common Carrier”?

Common Carriers are commercial enterprises that advertise to the public. They offer transportation services for freight or passengers, and deliver multiple types of freight to multiple clients for both public and private construction on a recurring basis. Common carriers do not include an enterprise whose existence or continuing operations rely exclusively or nearly so on one or more public construction projects. Freight does not include dirt, sand, gravel, rock or other naturally occurring earth materials.

6. How much should I be paid?

-Employees must be paid no less than the prevailing rate of pay for the classification of work performed.
-Bona fide owner operators must be paid no less than the prevailing rate of pay for the classification of work performed. Contractual amounts in excess of the required prevailing wage rate shall be paid in accordance with your contract. After deducting operating expenses, the payment received by an owner

operator must not be less than the prevailing rate of pay. For Frequency of pay, please see #7.

7. What if I am not paid the rate shown in Pamphlet 600?

Employees can be paid more than the minimum prevailing rate of pay, but cannot be paid less. If you receive less than the prevailing rate of pay, please contact the Alaska Wage and Hour.

8. How often should I be paid?

-Employees must be paid weekly and unconditionally.

-Bona fide owner operator truck drivers must be paid each certified payroll-reporting period, not less than once every two weeks. For rates of pay, please see #5

9. Am I entitled to overtime?

Eligible employees are entitled to overtime pay at 1.5 times the regular rate of pay for hours worked in excess of 8 hours in a day and 40 straight-time hours in a workweek. Fringe benefits are paid at a flat rate for all hours worked on public construction and are not included when calculating the regular rate of pay.

10. What should my overtime rate of pay be if I work on multiple projects during the workweek?

If you worked as an employee at more than one rate of pay and earned overtime, the overtime rate must be calculated using the weighted average method. If you need assistance, please contact the Alaska Wage and Hour.

11. How do I keep track of my hours?

You should keep an accurate account of all your time worked. Keep a log that shows the date the work was done, the time spent on the project, the project name and number, the equipment used and your mileage. You should also have a brief note of what you were doing at the time; i.e., hauling equipment from one job site to another, hauling material from a pit (location) to a project, loading/unloading, etc. You should also keep copies of all truck tickets for your records.

12. Am I an employee or an independent contractor (owner/operator)?

“Red flags” are raised when a truck driver does not own their own truck and they lease a truck to perform work for a broker/subcontractor/contractor. Some other red flags are:

- A driver is required to purchase a business license, a Workers’ Compensation Insurance Policy, or Liability Insurance Policy, or a broker purchases one for them.
- A driver is told where to park the truck at night.
- A driver is not free to work where, when, or for whom they want.
- A driver does not bear their own operating expenses; a broker deducts costs for fuel, grease, brake fluid, antifreeze, windshield fluid, insurance, maintenance, or repair of the truck from the driver’s pay.
- A driver does not advertise their services to the public or find their own work.
- A driver has little to no investment in their business.
- A driver cannot realize a profit or loss based on how they manage the business.

You are encouraged to contact your nearest Wage and Hour office with any questions.

13 Do I have to submit my own certified payroll?

It depends. Under Alaska law, each contractor, subcontractor or owner operator who performs work on a public construction contract must submit their certified payroll to the Department by the Friday of every second week.

Employee truck drivers must be listed on the certified payroll of the contractor who hired them.

If you are a bona fide owner operator who operates your own business and cannot reasonably be considered an employee of the contractor who has arranged for your services, then you are required to file your own certified payrolls when you perform work on a public construction contract.

If you are a sole proprietor, or an LLC/LLP who does not file your taxes as a corporation, and you cannot reasonably be considered an employee of the contractor who has arranged for your services, you must file certified payroll as an owner operator. For each workweek, you must report the hours you worked, the rates you are due under your contract, and the date and amount of any progress payment you receive. For a week when you are not paid, make the notation “owner operator not paid” across the deductions line.

If you are incorporated, or you are an LLC/LLP that files your taxes as a corporation, then you are an employee of the entity that you created and you do not qualify as an owner operator. As an employee, you must be reported on certified payroll in the same manner as any other employee, including the hours you worked, the rates of pay you are due, any deductions taken from your wages, and like any other employee, you must be paid weekly and unconditionally.

14. What information is required on certified payrolls?

The Wage and Hour provides Form 07-6058 for your convenience. Before submitting the form, ensure all blank spaces have been filled out. The form is available on our website located here: <http://labor.alaska.gov/lss/lssforms.htm>. Alternately, you may submit a customized certified payroll form. However, any form you submit must contain the same information and statement of compliance required by FORM 07-6058. If you need assistance, please contact the Alaska Wage and Hour.

15. What if a contractor fails to pay prevailing wages, refuses to submit certified payroll, or intentionally furnishes false information to the Department?

In addition to being subject to debarment for a period of three years, contractors who violate Alaska’s prevailing wage laws may face criminal and/or civil prosecution, which may result in jail time, and or fines.

Free Wage and Hour Webinars:

Wage and Hour is now providing interactive online webinars covering basic wage and hour laws for employers, contractors and employees.

Wage and Hour Laws/Child Labor Laws - Every third Tuesday of every month from 9:00 a.m. to noon.

Public Construction and Prevailing Wage - Every third Wednesday of every month from 9:00 a.m. to noon.

Please contact our office at [\(907\) 269-4900](tel:9072694900) for registration.

Where can I find answers regarding:

• **Alaska Commercial Vehicle Enforcement**

Department of Transportation
Division of Measurement Standards and Commercial Vehicle Enforcement
dot.state.ak.us
dot.state.ak.us/mscve/main.cfm
1-800-478-7636

• **Federal Payroll Tax Deductions?**

Federal Taxes - IRS
www.irs.gov
1-800-829-1040

• **Alaska Payroll Tax Deductions?**

AK Unemployment Insurance Taxes Employment Security Tax
labor.alaska.gov/estax/
907-269-4820

• **Workers Compensation?**

State of Alaska
Division of Worker’s Compensation
labor.alaska.gov/wc/home/htm
907-465-2790

• **Unemployment Insurance Benefits?**

www.labor.state.alaska.gov/esd 907-269-4700