

**SENATE BILL NO. 16**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS BEGICH, Gray-Jackson

Introduced: 1/19/21

Referred: Prefiled

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the authority and procedures of the State Commission for Human**  
2 **Rights; requiring an annual report concerning the payment of equal pay for comparable**  
3 **work; increasing the minimum wage; relating to and prohibiting wage discrimination**  
4 **based on the sex of an employee; and providing for an effective date."**

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

6 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 SHORT TITLE. This Act may be known as the Equal Pay and Living Wage Act.

9 \* **Sec. 2.** AS 18.80 is amended by adding a new section to read:

10 **Sec. 18.80.062. Powers and duties of executive director.** In addition to the  
11 powers and duties delegated by the commission under AS 18.80.060, the executive  
12 director shall, upon request, consult and collaborate with the commissioner of  
13 administration or the commissioner's designee to prepare the annual report required  
14 under AS 23.05.062.

1 \* **Sec. 3.** AS 18.80.100 is amended to read:

2 **Sec. 18.80.100. Complaint; withdrawal.** (a) Except as provided in (c) of  
 3 this section, a [A] person who is aggrieved by a discriminatory practice prohibited by  
 4 this chapter may sign and file with the commission a written, verified complaint  
 5 stating the name and address of the person alleged to have engaged in the  
 6 discriminatory practice, and the particulars of the discrimination. A complainant may  
 7 withdraw the complaint at any time before the service of an accusation under  
 8 AS 18.80.120. A withdrawal must be signed by the complainant and be in writing. A  
 9 withdrawal does not limit the discretion of the executive director provided in (b) of  
 10 this section.

11 (b) Except as provided in (c) of this section, the [THE] executive director  
 12 may file a complaint in the manner provided in (a) of this section when a  
 13 discriminatory practice comes to the attention of the executive director.

14 \* **Sec. 4.** AS 18.80.100 is amended by adding a new subsection to read:

15 (c) The executive director or the director's designee may not file a complaint  
 16 under this section alleging wage discrimination prohibited by AS 23.10.700.

17 \* **Sec. 5.** AS 18.80.145(a) is amended to read:

18 (a) When an action alleging a violation of this chapter is brought under  
 19 AS 22.10.020(i), the plaintiff shall serve a copy of the complaint on the commission.  
 20 Upon timely application, the commission may intervene as a party to the action as a  
 21 matter of right. If the commission certifies in writing to the court that it is presently  
 22 investigating or actively dealing with the act, practice, or policy of the defendant  
 23 giving rise to the cause of action, the court shall, at the request of the commission,  
 24 defer proceedings for a period of not more than 45 days or an [SUCH] extended  
 25 period as the court may allow; except that the court may enter an order or injunction if  
 26 necessary to prevent irreparable injury to the plaintiff.

27 \* **Sec. 6.** AS 18.80.300 is amended by adding new paragraphs to read:

28 (19) "gender identity or expression" means having or being perceived  
 29 as having or expressing a gender, self-image, appearance, or behavior, regardless of  
 30 whether that gender, self-image, appearance, or behavior is different from that  
 31 traditionally associated with the sex assigned to that person at birth;

1 (20) "sex" means gender, gender identity or expression, and sexual  
2 orientation;

3 (21) "sexual orientation" means heterosexuality, homosexuality, and  
4 bisexuality.

5 \* **Sec. 7.** AS 22.10.020(i) is amended to read:

6 (i) The superior court is the court of original jurisdiction over all causes of  
7 action arising under the provisions of AS 18.80 or AS 23.10.700 - 23.10.790. A  
8 person who is injured or aggrieved by an act, practice, or policy **that** [WHICH] is  
9 prohibited under AS 18.80 or AS 23.10.700 - 23.10.790 may apply to the superior  
10 court for relief. The person aggrieved or injured may maintain an action on behalf of  
11 that person or on behalf of a class consisting of all persons who are aggrieved or  
12 injured by the act, practice, or policy giving rise to the action. In an action brought  
13 under this subsection, the court may grant relief as to any act, practice, or policy of the  
14 defendant **that** [WHICH] is prohibited by AS 18.80 or AS 23.10.700 - 23.10.790,  
15 regardless of whether each act, practice, or policy, with respect to which relief is  
16 granted, directly affects the plaintiff, so long as a class or members of a class of which  
17 the plaintiff is a member are or may be aggrieved or injured by the act, practice, or  
18 policy. The court may enjoin any act, practice, or policy **that** [WHICH] is illegal  
19 under AS 18.80 or AS 23.10.700 - 23.10.790 and may order any other relief, including  
20 the payment of money, that is appropriate.

21 \* **Sec. 8.** AS 23.05.060 is amended to read:

22 **Sec. 23.05.060. Powers of the department.** The department may

23 (1) enforce all state labor laws;

24 (2) act as mediator and appoint deputy commissioners of conciliation  
25 in labor disputes whenever it considers the interest of industrial peace requires [IT];

26 (3) make investigations and collect and compile statistical information  
27 concerning the conditions of labor generally and **on** [UPON] all matters relating to the  
28 enforcement of this chapter;

29 (4) institute court proceedings against an employer of labor without  
30 cost to the employee when it is satisfied that the employer has failed to pay an  
31 employee an amount due by contract;

1 (5) issue cease and desist orders and other orders and regulations  
2 necessary for the enforcement of state labor laws;

3 (6) in accordance with AS 37.07 (the Executive Budget Act), receive  
4 and spend money derived from agreements with local governments, nongovernmental  
5 organizations, or other persons;

6 **(7) consult and collaborate with the executive director of the State**  
7 **Commission for Human Rights to prepare the annual report required under**  
8 **AS 23.05.062.**

9 \* **Sec. 9.** AS 23.05 is amended by adding a new section to read:

10 **Sec. 23.05.062. Report on fair pay practices.** (a) Not later than January 15 of  
11 each year, the commissioner or the commissioner's designee shall prepare a report  
12 regarding pay practices in the state by election district and make it available to the  
13 public, file it with the executive director of the State Commission for Human Rights,  
14 the senate secretary, and the chief clerk of the house of representatives, and notify the  
15 legislature that the report is available. The report must include

16 (1) information about compensation practices in the state, including  
17 employer noncompliance with applicable state and federal wage laws, and to what  
18 extent employees in one or more election districts of the state are paid

19 (A) equal pay for work of comparable character, regardless of  
20 race, religion, color, national origin, age, physical or mental disability, sex,  
21 marital status, change in marital status, pregnancy, or parenthood;

22 (B) wages that, based on a full-time weekly work schedule and  
23 a 12-month work year in that district, are sufficient to pay the reasonable living  
24 expenses of a family of four individuals, including two children, who live in  
25 that district;

26 (2) recommended action by the legislature.

27 (b) In this section,

28 (1) "gender identity or expression" means having or being perceived as  
29 having or expressing a gender, self-image, appearance, or behavior, regardless of  
30 whether that gender, self-image, appearance, or behavior is different from that  
31 traditionally associated with the sex assigned to that person at birth;

1 (2) "sex" means gender, gender identity or expression, and sexual  
2 orientation;

3 (3) "sexual orientation" means heterosexuality, homosexuality, and  
4 bisexuality.

5 \* **Sec. 10.** AS 23.10.065(a) is amended to read:

6 (a) Except as otherwise provided for in law, an employer shall pay to each  
7 employee a minimum wage, as established herein, for hours worked in a pay period,  
8 whether the work is measured by time, piece, commission or otherwise. An employer  
9 may not apply tips or gratuities bestowed on [UPON] employees as a credit toward  
10 payment of the minimum hourly wage required by this section. Tip credit as defined  
11 by the Fair Labor Standards Act of 1938, as amended, does not apply to the minimum  
12 wage established by this section. Beginning February 24, 2015, the minimum wage  
13 shall be \$8.75 an [PER] hour effective January 1, 2015, \$9.75 an [PER] hour effective  
14 January 1, 2016, \$15.00 an hour effective January 1, 2022, and thereafter adjusted  
15 annually for inflation. The adjustment shall be calculated each September 30, for the  
16 proceeding January-December calendar year, by the Alaska Department of Labor and  
17 Workforce Development, using 100 percent of the rate of inflation based on the  
18 Consumer Price Index for all urban consumers for the Anchorage metropolitan area,  
19 compiled by the Bureau of Labor Statistics, United States Department of Labor; the  
20 department shall round the adjusted minimum hourly wage up to the nearest one cent;  
21 the adjusted minimum hourly wage shall apply to work performed beginning on  
22 January 1 through December 31 of the year for which it is effective.

23 \* **Sec. 11.** AS 23.10 is amended by adding new sections to read:

24 **Article 9. Equal Pay Without Discrimination Based on Sex.**

25 **Sec. 23.10.700. Equal pay regardless of sex.** (a) An employer may not pay an  
26 employee of one sex wages that are less than the wages the employer pays an  
27 employee of another sex for work that is substantially similar when viewed as a  
28 composite of skill, effort, and responsibility, and performed under similar working  
29 conditions, unless the employer demonstrates that the wage differential is primarily  
30 based on the employer's reliance on a

31 (1) relevant disparity in the employees' education, training, or

1 experience;

2 (2) seniority system;

3 (3) merit system;

4 (4) system that measures earnings by quantity;

5 (5) system that measures earnings by quality of production; or

6 (6) system that incorporates a geographic wage differential.

7 (b) An employer may not unreasonably rely on a disparity or system under  
8 (a)(1) - (6) of this section.

9 **Sec. 23.10.710. Remedies.** (a) An employer is liable to each employee for  
10 unpaid wages withheld in violation of AS 23.10.700 and, unless waived under (d) of  
11 this section, liquidated damages equal to twice the amount of unpaid wages.

12 (b) An employee may bring an action in the superior court under  
13 AS 22.10.020(i) to recover wages and damages under (a) of this section, or an  
14 employee may individually consent in writing to representation by the commissioner.  
15 The employee or the commissioner shall file the consent in the court in which the  
16 action is brought. At the written request of an employee who alleges a violation of  
17 AS 23.10.700, the commissioner may take an assignment in trust for the employee of  
18 the full amount to which the employee is entitled under that section and may bring a  
19 legal action to collect damages under (a) of this section.

20 (c) The commissioner may supervise the payment of damages owed to an  
21 employee under this section. Payment in full under an agreement by an employee to  
22 settle a claim under this section for unpaid wages or liquidated damages constitutes a  
23 waiver of any right as to a claim the employee may have under (a) of this section to  
24 unpaid wages or liquidated damages.

25 (d) In a settlement for unpaid wages under this section that is not supervised  
26 by the department or the court, an employee is entitled to liquidated damages under (a)  
27 of this section unless the employee and the employer enter into a written settlement  
28 agreement in which the employee expressly waives the right to receive liquidated  
29 damages. A private written settlement agreement under this subsection is not valid  
30 unless submitted to the commissioner for review. The commissioner shall review the  
31 agreement and approve it if it is fair to the parties. The commissioner shall approve or

1 deny an agreement within 30 days after receipt. A waiver of liquidated damages may  
2 not be a condition of employment.

3 **Sec. 23.10.715. Double recovery of damages not permitted.** An employee  
4 who recovers unpaid wages from an employer as the result of a complaint or  
5 agreement under AS 23.10.700 and recovers unpaid wages from the employer under  
6 29 U.S.C. 206(d) as a result of the same conduct by the employer shall return to the  
7 employer the unpaid wages recovered under AS 23.10.710 or the unpaid wages  
8 recovered under federal law, whichever is less.

9 **Sec. 23.10.720. Disclosure of wages; discussion of wages.** An employer may  
10 not prohibit an employee from disclosing the employee's wages, discussing the wages  
11 of others, inquiring about another employee's wages, or helping or encouraging  
12 another employee to exercise a right under this section. Nothing in this section creates  
13 an obligation for a person to disclose information about their own wages or the wages  
14 of another.

15 **Sec. 23.10.725. Employer shall maintain records.** An employer shall make a  
16 record of the wage rates and of wages paid to each employee from the date of the  
17 employee's hire and maintain that record for at least three years after the employee's  
18 last day of employment.

19 **Sec. 23.10.730. Posting summary required.** An employer subject to  
20 AS 23.10.700 - 23.10.790 shall keep a summary or abstract of AS 23.10.700 -  
21 23.10.790, approved by the commissioner, posted in a conspicuous location at the  
22 place where an employee is employed. Upon request by an employer, the  
23 commissioner shall provide a copy of the summary without charge.

24 **Sec. 23.10.735. Retaliation prohibited.** An employer may not discharge,  
25 discipline, threaten, discriminate against, or penalize an employee for exercising a  
26 right under AS 23.10.700 - 23.10.790 or participating in or benefitting from a  
27 complaint, claim, trial, agreement, or investigation resulting from an alleged violation  
28 of AS 23.10.700 - 23.10.790.

29 **Sec. 23.10.740. Damages for retaliation.** An employee who has been  
30 discharged, disciplined, threatened, discriminated against, or penalized in violation of  
31 AS 23.10.735 may file a civil claim against the employer for damages, including

1 reinstatement and lost wages.

2 **Sec. 23.10.745. Accepting lesser wages not a bar to action.** An employee's  
3 agreement to work for wages less than the wages required by AS 23.10.700 does not  
4 bar an action under AS 23.10.700 - 23.10.790.

5 **Sec. 23.10.750. Statute of limitations.** An action under AS 23.10.700 -  
6 23.10.790 may be filed not later than three years after the injury to the aggrieved  
7 employee last occurs.

8 **Sec. 23.10.755. Regulations.** The commissioner shall adopt regulations under  
9 AS 44.62 (Administrative Procedure Act) to implement and interpret AS 23.10.700 -  
10 23.10.790.

11 **Sec. 23.10.790. Definitions.** In AS 23.10.700 - 23.10.790,

12 (1) "employee" means a person in the service of an employer;

13 (2) "employer" means the state, the University of Alaska, the Alaska  
14 Railroad Corporation, a political subdivision of the state, and a person who employs  
15 one or more other persons;

16 (3) "gender identity or expression" means having or being perceived as  
17 having or expressing a gender, self-image, appearance, or behavior, regardless of  
18 whether that gender, self-image, appearance, or behavior is different from that  
19 traditionally associated with the sex assigned to that person at birth;

20 (4) "sex" means gender, gender identity or expression, and sexual  
21 orientation;

22 (5) "sexual orientation" means heterosexuality, homosexuality, and  
23 bisexuality.

24 \* **Sec. 12.** AS 18.80.220(a)(5) is repealed.

25 \* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to  
26 read:

27 **APPLICABILITY.** (a) The increase in the minimum wage to \$15.00 an hour in  
28 AS 23.10.065(a), as amended by sec. 10 of this Act, applies to wages for services performed  
29 on or after January 1, 2022.

30 (b) AS 18.80.100, as amended by sec. 3 of this Act, AS 18.80.100(c), enacted by sec.  
31 4 of this Act, AS 18.80.300(19) - (21), enacted by sec. 6 of this Act, AS 22.10.020(i), as



1 amended by sec. 7 of this Act, AS 23.10.700 - 23.10.790, enacted by sec. 11 of this Act, and  
2 the repeal of AS 18.80.220(a)(5) in sec. 12 of this Act apply to wages for services performed  
3 on or after the effective date of this Act.

4 \* **Sec. 14.** This Act takes effect July 1, 2021.