

This Pocket Guide explains the **BASIC WAGE and HOUR LAWS** for fishing deckhands and fish processor workers in the Alaska fishing industry. It answers the questions most often asked.

These answers are general and may not apply to all workers or employers. In many cases fishing deckhands are “joint partners” in the fishing venture and are not employees.

For more information or to ask specific questions, call the Wage and Hour Administration office Monday through Friday from 8 am to 5 pm.

Anchorage: (907) 269-4900

Juneau: (907) 465-4842

Fairbanks: (907) 451-2886

## **WAGE and HOUR FACTS**

### **Alaska Fishing Industry Workers**

#### **1. What is Alaska’s minimum wage?**

Effective January 1, 2017, Alaska’s minimum wage is \$9.80 per hour.

**2. What is the overtime law?** In Alaska, overtime must be paid at the rate of one and one-half times the regular hourly rate for all hours worked over 8 in a single day or over 40 straight-time hours in a week.

**3. Should fishing deckhands be paid minimum wage and overtime?** They do not have to be paid minimum wage or overtime when working as fishing deckhands.

**4. Should employees of a fish processor be paid minimum wage?** Yes. Employees of a floating processor who work within the 3-mile limit or for a shore-based processor must be paid minimum wage and overtime.

**5. Should deckhands on a floating processor be paid minimum wage?** Yes they must be paid minimum wage.

**6. Should deckhands or seamen on a floating processor be paid overtime?** No. They are exempt from overtime laws.

**7. Should fishing deckhands have a written contract before going out to fish?** Both state and federal law require a written contract between the fishing deckhands and the company or skipper before going out to fish.

**8. Should fishing deckhands get paid if they have a written contract and they do not go out to fish?** It depends on the contract language and the reason for not fishing. If the season is called off or closed, they do not have to be paid. If the skipper did not allow them to fish and they worked getting the boat or gear ready before fishing, they should be paid at least minimum wage.

**9. Do fish processor employees have to have a written contract?** Yes. They must be told, in writing, what the wages are. Wages must be at least the Alaska minimum wage for all hours worked and one and one-half times that for all hours worked over 8 in a single day or over 40 straight-time hours in a week.

**10. Can money be taken from the wages of a fishing deckhand for food, gas, and charges to the company store?** If the fishing deckhand has agreed, preferably in writing, to have these charges taken out of his or her pay, then they can be.

**11. On a fish processor, can the employer take money from a paycheck for charges to the company store, such as for gear?** Yes, if the employee has signed a contract that allows the employer to do so. The amounts taken must leave the employee with the hourly minimum wage and any overtime due.

**12. Can the cost of protective clothing be taken from the wages of a deckhand or fish processor who is eligible for minimum wage?** No, an employer may not deduct from the minimum wage or overtime payments. If the clothing is required by federal, state or local safety or health codes, the employer must provide the equipment or clothing at no cost to the employee.

**13. If a fishing deckhand has to travel from the point of hire to the workplace, who pays for that travel and the return costs?** This is a question that has a number of answers depending on the facts. Here are some examples:

**a.** If an employer gives a fishing deckhand the travel costs to get to the fishing grounds, the travel costs may be taken out of the crewshare earned by the deckhand.

**b.** If the skipper or employer supplies the travel costs and the terms of the contract are met by the fishing deckhand, then the deckhand must be returned to the point of hire at the skipper's or employer's expense.

**c.** If a fishing deckhand's travel costs to the fishing ground were paid by the employer and they fished only outside the 3-mile limit, then return travel costs do not have to be paid because they fished only outside Alaska waters.

**d.** If the employer pays all or part of the travel costs, provides the travel, or advances the cost of travel expenses from place of hire to place of work, the employer must pay for the return trip or provide return travel. The return travel must be to the point of hire or to a place agreed upon by both the employee and the employer. An employer does not have to pay for return travel if the employee was fired for any of the following:

- i. lying on a job application;
- ii. abusing alcohol or drugs as determined by the employer;
- iii. fighting; or
- iv. unexcused absence from work for more than three consecutive scheduled work days.

**e.** If an employee quits the job, the employer does not have to pay for the return travel unless the employee quit for one of the following reasons:

- i. because the employer misled the employee as to the wages, the lodging or the working conditions; or
- ii. for health or safety reasons.

**14. Do Alaska Wage and Hour laws apply outside the 3-mile limit for fishing claims?** No, Alaska laws apply only within the 3-mile limit. Workers with problems outside the 3-mile limit

should talk to the U. S. Department of Labor, the U. S. Coast Guard, or a maritime lawyer.

**15. If a fishing deckhand fishes within the 3-mile limit, being exempt from minimum wage and overtime, and he/she performs other work such as offloading fish, fueling, etc., does he/she have to be paid minimum wage or overtime for this other work?** No. Work that is related to the main job of fishing is not covered by the Alaska minimum wage or overtime laws.

**16. Can a lien be filed against a vessel when an employer does not pay the crewshare or wages?** Yes, but the Wage and Hour office does not file liens on boats. To file a lien contact the nearest U. S. Marshal's office.

**17. If you process fish outside the 3-mile limit, do the Alaska Wage and Hour laws apply?** No, Alaska laws apply only to work within the 3-mile limit.

**18. The fishery closed two weeks ago. The skipper won't pay crewshares until the fish is sold. How long can a skipper delay payment?** Alaska labor laws require employers to pay employees who have been terminated within three working days after the end of employment. "Working days" does not include weekends or holidays. This may not apply to fishing deckhands who may not be "employees."

**19. Does the skipper have to pay shares to the crew for retroactive price changes or boat owner costs that are paid by the processor?** This depends upon the wording of the fishing contract. If the contract leaves the crew out of retroactive payment, the crew would not have to be paid the retro payment.

**20. Can the skipper change the crewshare amount during or after the fishery opening?** If the contract allows for a change in the crewshare, it can be changed. If the contract is silent or there is no written contract, it cannot.

**21. What can fishing deckhands do if they are not paid their crewshare?** The Alaska Wage and Hour Administration will take a wage claim for the amount due by contract. The deckhand must provide a copy of the crew contract and calculations of the value of the fish caught and expenses. Due to limited resources, the Department will provide limited services for deckhands fishing without a written contract. These claims can be extremely time-consuming and very difficult to collect without sufficient evidence. The Department cannot take a wage claim that exceeds \$20,000. If your crewshare is more than \$20,000, you should contact an attorney for assistance.

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