

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2323 Session of
2014

INTRODUCED BY CRUZ, YOUNGBLOOD, W. KELLER, MUNDY, THOMAS,
KINSEY, BROWNLEE, SCHLOSSBERG, BISHOP, DAVIDSON AND McCARTER,
JUNE 6, 2014

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 6, 2014

AN ACT

1 Amending the act of January 17, 1968 (P.L.11, No.5), entitled
2 "An act establishing a fixed minimum wage and overtime rates
3 for employes, with certain exceptions; providing for minimum
4 rates for learners and apprentices; creating a Minimum Wage
5 Advisory Board and defining its powers and duties; conferring
6 powers and imposing duties upon the Department of Labor and
7 Industry; imposing duties on employers; and providing
8 penalties," further providing for definitions and for tipped
9 employees.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 3(d) of the act of January 17, 1968
13 (P.L.11, No.5), known as The Minimum Wage Act of 1968, amended
14 July 9, 2006 (P.L.1077, No.112), is amended to read:

15 Section 3. Definitions.--As used in this act:

16 * * *

17 (d) "Wages" mean compensation due to any employe by reason
18 of his or her employment, payable in legal tender of the United
19 States or checks on banks convertible into cash on demand at
20 full face value, subject to such deductions, charges or
21 allowances as may be permitted by regulations of the secretary

1 under section 9.

2 "Wage" paid to any employee includes the reasonable cost, as
3 determined by the secretary, to the employer for furnishing such
4 employee with board, lodging, or other facilities, if such board,
5 lodging, or other facilities are customarily furnished by such
6 employer to his or her employees: Provided, That the cost of
7 board, lodging, or other facilities shall not be included as a
8 part of the wage paid to any employee to the extent it is
9 excluded therefrom under the terms of a bona fide collective-
10 bargaining agreement applicable to the particular employee:
11 Provided, further, That the secretary is authorized to determine
12 the fair value of such board, lodging, or other facilities for
13 defined classes of employees and in defined areas, based on
14 average cost to the employer or to groups of employers similarly
15 situated, or average value to groups of employees, or other
16 appropriate measures of fair value. Such evaluations, where
17 applicable and pertinent, shall be used in lieu of actual
18 measure of cost in determining the wage paid to any employee.

19 [In determining the hourly wage an employer is required to
20 pay a tipped employee, the amount paid such employee by his or her
21 employer shall be an amount equal to: (i) the cash wage paid the
22 employee which for the purposes of the determination shall be not
23 less than the cash wage required to be paid the employee on the
24 date immediately prior to the effective date of this
25 subparagraph; and (ii) an additional amount on account of the
26 tips received by the employee which is equal to the difference
27 between the wage specified in subparagraph (i) and the wage in
28 effect under section 4 of this act. The additional amount on
29 account of tips may not exceed the value of tips actually
30 received by the employee. The previous sentence shall not apply

1 with respect to any tipped employe unless:

2 (1) Such employe has been informed by the employer of the
3 provisions of this subsection;

4 (2) All tips received by such employe have been retained by
5 the employe and shall not be surrendered to the employer to be
6 used as wages to satisfy the requirement to pay the current
7 hourly minimum rate in effect; where the gratuity is added to
8 the charge made by the establishment, either by the management,
9 or by the customer, the gratuity shall become the property of
10 the employe; except that this subsection shall not be construed
11 to prohibit the pooling of tips among employes who customarily
12 and regularly receive tips.] An employer shall pay a tipped
13 employe the minimum wage under section 4(a). All tips received
14 by such employe shall not be surrendered to the employer to be
15 used as wages to satisfy the requirement to pay the current
16 hourly minimum rate.

17 * * *

18 Section 2. This act shall take effect in 60 days.