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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1360 Session of  
2015

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INTRODUCED BY BAKER, BROWNE, McGARRIGLE, GORDNER, SCAVELLO,  
FOLMER, WHITE, MENSCH AND RAFFERTY, SEPTEMBER 6, 2016

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REFERRED TO LABOR AND INDUSTRY, SEPTEMBER 6, 2016

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AN ACT

1 Providing for statutory construction of Pennsylvania wage and  
2 hour laws.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Statutory  
7 Construction of Wage and Hour Laws Act.

8 Section 2. Declaration of purpose.

9 The General Assembly finds and declares as follows:

10 (1) Many employers in this Commonwealth are subject to  
11 dual coverage under the Fair Labor Standards Act of 1938 (52  
12 Stat. 1060, 29 U.S.C. § 201 et seq.) and the act of January  
13 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of  
14 1968.

15 (2) The Congress of the United States and the United  
16 States Department of Labor have a robust history of amending  
17 and revising the Fair Labor Standards Act of 1938 and its  
18 implementing regulations and interpretive guidance, including

1 29 U.S.C. Ch. 9 (relating to portal-to-portal pay) and the  
2 Final Rule (81 FR 32391), updating 29 CFR Pt. 541 (relating  
3 to defining and delimiting the exemptions for executive,  
4 administrative, professional, computer and outside sales  
5 employees).

6 (3) The General Assembly seeks to avoid, to the greatest  
7 extent possible and consistent with the public policy of the  
8 Commonwealth, the burdening of employers and employees with  
9 two different sets of Federal and State standards.

10 (4) As a result of the General Assembly and the  
11 Department of Labor and Industry of the Commonwealth failing  
12 to update in accordance with the amendments and revisions to  
13 the Fair Labor Standards Act of 1938 and its implementing  
14 regulations and interpretive guidance, unintended  
15 discrepancies have arisen between Federal and State law.

16 (5) The discrepancies between Federal and State law have  
17 caused confusion for employers and employees and have  
18 resulted in instances in which good faith compliance with  
19 Federal law has nonetheless been deemed to be in violation of  
20 State law.

21 Section 3. Construction of The Minimum Wage Act of 1968.

22 The following apply:

23 (1) The act of January 17, 1968 (P.L.11, No.5), known as  
24 The Minimum Wage Act of 1968, shall be construed in pari  
25 materia with 29 U.S.C. Ch. 9 (relating to portal-to-portal  
26 pay) and sections 7 and 13 and the other provisions of the  
27 Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. §  
28 201 et seq.), including regulations in effect on or after the  
29 effective date of this act.

30 (2) For the purposes of section 5(a)(5) of The Minimum

1 Wage Act of 1968, the applicable salary level required to  
2 qualify as a bona fide executive, administrative or  
3 professional employee shall be the minimum salary or fee  
4 level set forth under 29 CFR Pt. 541 (relating to defining  
5 and delimiting the exemptions for executive, administrative,  
6 professional, computer and outside sales employees) as in  
7 effect November 30, 2016.

8 Section 4. Construction of this act.

9 Nothing in this act shall be construed to modify or repeal  
10 the act of October 9, 2008 (P.L.1376, No.102), known as the  
11 Prohibition of Excessive Overtime in Health Care Act.

12 Section 5. Repeals.

13 All acts and parts of acts are repealed insofar as they are  
14 inconsistent with this act.

15 Section 6. Abrogation of regulations.

16 All regulations and parts of regulations are abrogated  
17 insofar as they are inconsistent with this act.

18 Section 7. Effective date.

19 This act shall take effect December 1, 2016, or immediately,  
20 whichever is later.