

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2873** Session of
1996

INTRODUCED BY STISH, SEPTEMBER 23, 1996

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 1996

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 the minimum wage.

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

11 Section 1. Section 4 of the act of January 17, 1968 (P.L.11,
12 No.5), known as The Minimum Wage Act of 1968, amended December
13 10, 1974 (P.L.916, No.303), July 1, 1978 (P.L.735, No.135),
14 December 15, 1988 (P.L.1232, No.150), and July 9, 1990 (P.L.348,
15 No.79), is amended to read:

16 Section 4. Minimum Wages.--Except as may otherwise be
17 provided under this act:

18 (a) Every employer shall pay to each of his employes wages
19 for all hours worked at a rate of not less than:

20 (1) Two dollars sixty-five cents (\$2.65) an hour upon the

1 effective date of this amendment.

2 (2) Two dollars ninety cents (\$2.90) an hour during the year
3 beginning January 1, 1979.

4 (3) Three dollars ten cents (\$3.10) an hour during the year
5 beginning January 1, 1980.

6 (4) Three dollars thirty-five cents (\$3.35) an hour after
7 December 31, 1980.

8 (5) Three dollars seventy cents (\$3.70) an hour beginning
9 February 1, 1989, and [thereafter.] ending September 30, 1996.

10 (6) Four dollars seventy-five cents (\$4.75) an hour after
11 September 30, 1996, and before January 1, 1997.

12 (7) Five dollars (\$5.00) an hour after December 31, 1996,
13 and before September 1, 1997.

14 (8) Five dollars fifty cents (\$5.50) an hour after August
15 31, 1997, and before September 1, 1998.

16 (9) Six dollars (\$6.00) an hour after August 31, 1998, and
17 before September 1, 1999.

18 (a.1) If the minimum wage set forth in the Fair Labor
19 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.)
20 is increased above three dollars thirty-five cents (\$3.35) an
21 hour, the minimum wage required under this section shall be
22 increased by the same amounts and effective the same date as the
23 increases under the Fair Labor Standards Act, and the provisions
24 of subsection (a) are suspended to the extent they [differ from] <—
25 ARE LESS THAN those set forth under the Fair Labor Standards <—
26 Act.

27 (a.2) On September 1, 1999, and every September 1
28 thereafter, the minimum wage shall be increased to a figure
29 obtained by dividing the Poverty Level for a family of three
30 persons, as set forth by the Department of Health and Human

1 Services, by two thousand eighty and rounding the quotient to
2 the next highest cent. By August 31 of each year, the secretary
3 shall transmit a notice of the new rate to the Legislative
4 Reference Bureau for publication in the Pennsylvania Bulletin.

5 (b) The secretary, to the extent necessary to prevent
6 curtailment of employment opportunities, shall by regulations
7 provide for the employment of learners and students, under
8 special certificates at wages lower than the minimum wage
9 applicable under this section, and subject to such limitations
10 as to number, proportion and length of service as the secretary
11 shall prescribe: Provided, That the minimum wage prescribed
12 under this subsection (b) shall not be less than eighty-five
13 percent of the otherwise applicable wage rate in effect under
14 section 4. A special certificate issued under this subsection
15 shall provide that for six or less students for whom it is
16 issued shall, except during vacation periods, be employed on a
17 part-time basis and not in excess of twenty hours in any
18 workweek at a sub-minimum rate.

19 In the case of an employer who intends to employ seven or
20 more students, at a sub-minimum rate, the secretary may issue a
21 special certificate only if the employer certifies to the
22 secretary that employment of such students will not create a
23 substantial probability of reducing the full-time employment
24 opportunities for other workers.

25 (c) Employes shall be paid for overtime not less than one
26 and one-half times the employe's regular rate as prescribed in
27 regulations promulgated by the secretary: Provided, That
28 students employed in seasonal occupations as defined and
29 delimited by regulations promulgated by the secretary may, by
30 such regulations, be excluded from the overtime provisions of

1 this act: And provided further, That the secretary shall
2 promulgate regulations with respect to overtime subject to the
3 limitations that no pay for overtime in addition to the regular
4 rate shall be required except for hours in excess of forty hours
5 in a workweek.

6 (d) An employe whose earning capacity is impaired by
7 physical or mental deficiency or injury may be paid less than
8 the applicable minimum wage if either a license specifying a
9 wage rate commensurate with the employe's productive capacity
10 has been obtained by the employer from the secretary or a
11 Federal certificate is obtained under section 14(c) of the Fair
12 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et
13 seq.). A license obtained from the secretary shall be granted
14 only upon joint application of employer and employe.

15 Section 2. The addition of section 4(a)(6) of the act shall
16 apply retroactively to October 1, 1996.

17 Section 3. This act shall take effect immediately.