

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1820 Session of
2011

INTRODUCED BY DELOZIER, AUMENT, BEAR, CREIGHTON, DENLINGER,
GEIST, GINGRICH, GROVE, HELM, HENNESSEY, KAUFFMAN, MAJOR AND
SWANGER, AUGUST 22, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 6, 2012

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 minimum wages and for
9 exemptions.

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

12 Section 1. Section 4 of the act of January 17, 1968 (P.L.11,
13 No.5), known as The Minimum Wage Act of 1968, amended July 9,
14 2006 (P.L.1077, No.112), is amended to read:

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

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

19 (1) Two dollars sixty-five cents (\$2.65) an hour upon the
20 effective date of this amendment.

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

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

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

7 (5) Three dollars seventy cents (\$3.70) an hour beginning
8 February 1, 1989.

9 (6) Five dollars fifteen cents (\$5.15) an hour beginning
10 September 1, 1997.

11 (7) Six dollars twenty-five cents (\$6.25) an hour beginning
12 January 1, 2007.

13 (8) Seven dollars fifteen cents (\$7.15) an hour beginning
14 July 1, 2007.

15 (a.1) If the minimum wage set forth in the Fair Labor
16 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.)
17 is increased above the minimum wage required under this section,
18 the minimum wage required under this section shall be increased
19 by the same amounts and effective the same date as the increases
20 under the Fair Labor Standards Act, and the provisions of
21 subsection (a) are suspended to the extent they differ from
22 those set forth under the Fair Labor Standards Act.

23 (b) The secretary, to the extent necessary to prevent
24 curtailment of employment opportunities, shall by regulations
25 provide for the employment of learners and students, under
26 special certificates at wages lower than the minimum wage
27 applicable under this section, and subject to such limitations
28 as to number, proportion and length of service as the secretary
29 shall prescribe: Provided, That the minimum wage prescribed
30 under this subsection (b) shall not be less than eighty-five

1 percent of the otherwise applicable wage rate in effect under
2 section 4. A special certificate issued under this subsection
3 shall provide that for six or less students for whom it is
4 issued shall, except during vacation periods, be employed on a
5 part-time basis and not in excess of twenty hours in any
6 workweek at a sub-minimum rate.

7 In the case of an employer who intends to employ seven or
8 more students, at a sub-minimum rate, the secretary may issue a
9 special certificate only if the employer certifies to the
10 secretary that employment of such students will not create a
11 substantial probability of reducing the full-time employment
12 opportunities for other workers.

13 (c) Employes shall be paid for overtime not less than one
14 and one-half times the employe's regular rate as prescribed in
15 regulations promulgated by the secretary: Provided, That
16 students employed in seasonal occupations as defined and
17 delimited by regulations promulgated by the secretary may, by
18 such regulations, be excluded from the overtime provisions of
19 this act: And provided further, That the secretary shall
20 promulgate regulations with respect to overtime subject to the
21 limitations that no pay for overtime in addition to the regular
22 rate shall be required except for hours in excess of forty hours
23 in a workweek. An employer shall not be in violation of this
24 subsection if the employer is entitled to utilize, and acts
25 consistently with, section 7(j) of the Fair Labor Standards Act
26 of 1938 (29 U.S.C. § 207(j)) and regulations promulgated under
27 that provision.

28 (d) An employe whose earning capacity is impaired by
29 physical or mental deficiency or injury may be paid less than
30 the applicable minimum wage if either a license specifying a

1 wage rate commensurate with the employe's productive capacity
2 has been obtained by the employer from the secretary or a
3 Federal certificate is obtained under section 14(c) of the Fair
4 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et
5 seq.). A license obtained from the secretary shall be granted
6 only upon joint application of employer and employe.

7 (e) In lieu of the minimum wage prescribed in subsection (a)
8 and section 5(c) and notwithstanding subsections (b) and (d), an
9 employer may, during the first sixty calendar days when an
10 employe under the age of twenty years is initially employed, pay
11 the employe training wages at a rate of not less than the
12 minimum wage set forth in section 6(a) of the Fair Labor
13 Standards Act (29 U.S.C. § 206(a)). A person employed at the
14 training wage under this subsection shall be informed of the
15 amount of the training wage and the right to receive the full
16 minimum wage, or a higher wage, upon completion of the training
17 period. No employer may take any action to displace existing
18 employes, including partial displacements such as reduction in
19 the hours, wages or employment benefits of existing employes,
20 for purposes of hiring individuals at the training wage
21 authorized by this subsection.

22 Section 2. Section 5(b) of the act is amended by adding a
23 paragraph to read:

24 Section 5. Exemptions.--* * *

25 (b) Employment in the following classifications shall be
26 exempt from the overtime provisions of this act:

27 * * *

28 (8) The hours of an employe of an air carrier subject to the
29 provisions of Title II of the Railway Labor Act (44 Stat. 577,
30 45 U.S.C. § 181 et seq.) when:



1 (I) the hours are voluntarily worked by the employe pursuant
2 to a shift-trading practice under which the employe has the
3 opportunity to reduce hours worked in any workweek by
4 voluntarily offering a shift for trade or reassignment; OR ←

5 (II) THE REQUIRED HOURS OF WORK, WAGES AND OVERTIME
6 COMPENSATION HAVE BEEN AGREED TO EITHER IN A COLLECTIVE
7 BARGAINING AGREEMENT BETWEEN THE EMPLOYER AND LABOR ORGANIZATION
8 REPRESENTING EMPLOYES FOR PURPOSES OF COLLECTIVE BARGAINING OR
9 PURSUANT TO A VOLUNTARY AGREEMENT OR UNDERSTANDING ARRIVED AT
10 BETWEEN THE EMPLOYER AND EMPLOYE.

11 * * *

12 Section 3. This act shall take effect ~~immediately~~. AS ←
13 FOLLOWS:

14 (1) THE ADDITION OF SECTION 5(B) (8) OF THE ACT SHALL
15 TAKE EFFECT IN 90 DAYS.

16 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
17 IMMEDIATELY.