
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1045 Session of
2018

INTRODUCED BY HAYWOOD, TARTAGLIONE AND SCHWANK, FEBRUARY 9, 2018

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 9, 2018

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; providing for
9 tipped employees; and further providing for preemption.

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

12 Section 1. Section 3(d) and (i) of the act of January 17,
13 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, are
14 amended and the section is amended by adding a subsection to
15 read:

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

17 * * *

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

1 under section 9.

2 "Wage" paid to any employe includes the reasonable cost, as
3 determined by the secretary, to the employer for furnishing such
4 employe 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 employes: 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 employe to the extent it is
9 excluded therefrom under the terms of a bona fide collective-
10 bargaining agreement applicable to the particular employe:
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 employes 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 employes, 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 employe.

19 [In determining the hourly wage an employer is required to
20 pay a tipped employe, the amount paid such employe by his or her
21 employer shall be an amount equal to: (i) the cash wage paid the
22 employe which for the purposes of the determination shall be not
23 less than the cash wage required to be paid the employe 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 employe 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 employe. 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.]

13 * * *

14 (i) ["Gratuities"] "Gratuity" or "tip" means a voluntary,
15 monetary [contributions] contribution received by an employe
16 from a guest, patron or customer for services rendered.

17 (j) "Tipped employe" means an employe who customarily and
18 regularly receives a gratuity during the course of the employe's
19 employment.

20 Section 2. The act is amended by adding a section to read:

21 Section 4.1. Tipped Employes.--(a) An employer shall pay a
22 tipped employe wages for all hours worked at a rate of not less
23 than:

24 (1) Twelve dollars (\$12.00) an hour beginning January 1,
25 2024.

26 (2) Thirteen dollars (\$13.00) an hour beginning January 1,
27 2025.

28 (3) Fourteen dollars (\$14.00) an hour beginning January 1,
29 2026.

30 (4) Beginning January 1, 2027, the minimum wage under

1 section 4 or fifteen dollars (\$15.00), whichever is greater.

2 (5) Beginning January 1, 2028, and for each succeeding
3 January 1 thereafter, the minimum wage shall be increased by an
4 annual cost-of-living adjustment calculated by the secretary
5 using the percentage change in the Consumer Price Index for All
6 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,
7 Delaware and Maryland area. In calculating the adjustment, the
8 secretary shall use the most recent twelve-month period for
9 which figures have been officially reported by the United States
10 Department of Labor, Bureau of Labor Statistics. At least sixty
11 days prior to the date the adjustment is due to take effect, the
12 percentage increase and the minimum wage amount, rounded to the
13 nearest multiple of five cents (5¢), shall be determined by the
14 secretary. The secretary shall, within ten days following the
15 determination, forward a notice of the determination to the
16 Legislative Reference Bureau for publication in the next
17 Pennsylvania Bulletin.

18 (a.1) A municipality may enact an ordinance which requires
19 an employer to pay each of his or her employes wages for all
20 hours worked at a rate higher than the rate imposed under
21 subsection (a). A copy of an ordinance adopted by a municipality
22 under this subsection shall be submitted to the department.

23 (b) The following shall apply:

24 (1) Each tipped employe shall be informed in writing by the
25 employer, no later than twenty days after the effective date of
26 this section, that the tipped employe will be paid not less than
27 the appropriate minimum wage under subsection (a).

28 (2) Each gratuity received by the employe shall be retained
29 by the employe and shall not be surrendered or paid to the
30 employer. This paragraph shall not be deemed to prohibit the

1 pooling of gratuities among tipped employees.

2 (3) If a gratuity is added, either by the employer or
3 manager of the establishment or by the guest, patron or
4 customer, to the charge to the guest, patron or customer, the
5 gratuity shall become the property of the tipped employe and
6 shall not be used by the employer to satisfy the requirement to
7 pay the wage then in effect.

8 Section 3. Section 14.1 of the act is amended to read:

9 Section 14.1. Preemption.--(a) Except as set forth in
10 subsection (b) or section 4.1(a.1), this act shall preempt and
11 supersede any local ordinance or rule concerning the subject
12 matter of this act.

13 (b) This section does not prohibit local regulation pursuant
14 to an ordinance which was adopted by a municipality prior to
15 January 1, 2006, and which remained in effect on January 1,
16 2006.

17 Section 4. The amendment or addition of section 14.1(a.1) of
18 the act shall apply to contracts entered into or renewed on or
19 after the effective date of this section.

20 Section 5. This act shall take effect as follows:

21 (1) The amendment of the definition of "wage" under
22 section 3(d) of the act and the addition of section 4.1 of
23 the act shall take effect in six months.

24 (2) The remainder of this act shall take effect
25 immediately.