

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2

Session of
1989

INTRODUCED BY COHEN, BELFANTI, DeLUCA, MANDERINO, DeWEESE, FEE,
DOMBROWSKI, KUKOVICH, JOSEPHS, LETTERMAN, RYBAK, KOSINSKI,
STABACK, MRKONIC, HAYDEN, YANDRISEVITS, BLAUM, PETRONE,
COWELL, TIGUE, LaGROTTA, LEVDANSKY, MICHLOVIC, LUCYK,
McNALLY, CAWLEY, KAISER, DALEY, HUGHES, FREEMAN, MILLER AND
WILLIAMS, JANUARY 18, 1989

REFERRED TO COMMITTEE ON LABOR RELATIONS, JANUARY 18, 1989

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 defining "wages"; and increasing the
9 minimum wage.

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 December 15, 1988 (P.L. , No.150), 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 employment, payable in legal tender of the United States
19 or checks on banks convertible into cash on demand at full face

1 value, subject to such deductions, charges or allowances as may
2 be permitted by regulations of the secretary under section 9.

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

20 In determining the hourly wage of a tipped employe, the
21 amount paid such employe by his employer shall be deemed to be
22 increased on account of tips by an amount determined by the
23 employer, but not by an amount in excess of forty-five percent
24 of the applicable minimum wage rate upon the effective date of
25 this amendment, until January 1, 1980 and thereafter forty
26 percent of the applicable minimum wage rate: Provided, That the
27 amount of the increase on account of tips determined by the
28 employer may not exceed the value of tips actually received by
29 the employe. The previous sentence shall not apply with respect
30 to any tipped employe unless:

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

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

12 * * *

13 Section 2. Section 4(a) and (a.1) of the act, amended
14 December 15, 1988 (P.L. , No.150), are 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 employes wages
18 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.

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

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

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

27 (5) Three dollars seventy cents (\$3.70) an hour beginning
28 February 1, 1989, [and thereafter] until January 1, 1990.

29 [(a.1) If the minimum wage set forth in the Fair Labor
30 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.)

1 is increased above three dollars thirty five cents (\$3.35) an
2 hour, the minimum wage required under this section shall be
3 increased by the same amounts and effective the same date as the
4 increases under the Fair Labor Standards Act and the provisions
5 of subsection (a) are suspended to the extent they differ from
6 those set forth under the Fair Labor Standards Act.]

7 (6) Four dollars twenty-five cents (\$4.25) an hour beginning
8 January 1, 1990 until January 1, 1991.

9 (7) Four sixty-five cents (\$4.65) an hour beginning January
10 1, 1991.

11 (8) Beginning January 1, 1992 and thereafter the minimum
12 wage allowable in this Commonwealth shall be adjusted annually
13 and raised by the same percentage as the increase in the maximum
14 weekly benefit rate, as established by the department pursuant
15 to section 404(e) of the act of December 5, 1936 (2nd Sp.Sess.,
16 1937 P.L.2897, No.1), known as the "Unemployment Compensation
17 Law."

18 * * *

19 Section 3. This act shall take effect immediately.