

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 216 Session of
2005

INTRODUCED BY J. TAYLOR, KENNEY, BARRAR, BEBKO-JONES, BELARDI, BELFANTI, CALTAGIRONE, CAPPELLI, COSTA, CRUZ, CURRY, DALEY, DeWEESE, EACHUS, FICHTER, FRANKEL, FREEMAN, GEORGE, HARPER, HENNESSEY, JOSEPHS, W. KELLER, LaGROTTA, LEACH, LEDERER, MAITLAND, MANDERINO, MELIO, MUNDY, PETRONE, PISTELLA, PRESTON, RAYMOND, SANTONI, SCAVELLO, SHANER, STABACK, STURLA, SURRA, E. Z. TAYLOR, THOMAS, TIGUE, WALKO, WATSON, YOUNGBLOOD AND YUDICHAK, FEBRUARY 2, 2005

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 2, 2005

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 wage rates.

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

1 for all hours worked at a rate of not less than[:

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

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

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

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

10 (5) Three dollars seventy cents (\$3.70)] five dollars
11 fifteen cents (\$5.15) an hour [beginning February 1, 1989] after
12 August 31, 1997, and [thereafter.] before September 1, 2005;
13 five dollars sixty-five cents (\$5.65) an hour after August 31,
14 2005, and before September 1, 2006; and six dollars fifteen
15 cents (\$6.15) an hour after August 31, 2006.

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

25 (b) The secretary, to the extent necessary to prevent
26 curtailment of employment opportunities, shall by regulations
27 provide for the employment of learners and students, under
28 special certificates at wages lower than the minimum wage
29 applicable under this section, and subject to such limitations
30 as to number, proportion and length of service as the secretary

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

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

15 (c) Employes shall be paid for overtime not less than one
16 and one-half times the employe's regular rate as prescribed in
17 regulations promulgated by the secretary: Provided, That
18 students employed in seasonal occupations as defined and
19 delimited by regulations promulgated by the secretary may, by
20 such regulations, be excluded from the overtime provisions of
21 this act: And provided further, That the secretary shall
22 promulgate regulations with respect to overtime subject to the
23 limitations that no pay for overtime in addition to the regular
24 rate shall be required except for hours in excess of forty hours
25 in a workweek.

26 (d) An employe whose earning capacity is impaired by
27 physical or mental deficiency or injury may be paid less than
28 the applicable minimum wage if either a license specifying a
29 wage rate commensurate with the employe's productive capacity
30 has been obtained by the employer from the secretary or a

1 Federal certificate is obtained under section 14(c) of the Fair
2 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et
3 seq.). A license obtained from the secretary shall be granted
4 only upon joint application of employer and employe.

5 Section 2. This act shall take effect immediately.