

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2225 Session of
2005

INTRODUCED BY STEIL, CRAHALLA, CREIGHTON, GINGRICH, GODSHALL,
HENNESSEY, RUBLEY, SATHER, SAYLOR, SCHRODER, E. Z. TAYLOR,
WATSON AND WRIGHT, NOVEMBER 14, 2005

REFERRED TO COMMITTEE ON LABOR RELATIONS, NOVEMBER 14, 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 exemptions.

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

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13 repealed December 10, 1974 (P.L.916, No.303), July 1, 1978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

16 Section 5. Exemptions.--(a) Employment in the following
17 classifications shall be exempt from both the minimum wage and
18 overtime provisions of this act:

19 (1) Labor on a farm;

20 (2) Domestic services in or about the private home of the

1 employer;

2 (3) Delivery of newspapers to the consumer;

3 (4) In connection with the publication of any weekly,
4 semiweekly, or daily newspaper with a circulation of less than
5 four thousand, the major part of which circulation is within the
6 county where published or counties contiguous thereto;

7 (5) In a bona fide executive, administrative, or
8 professional capacity (including any employe employed in the
9 capacity of academic administrative personnel or teacher in
10 elementary or secondary schools) or in the capacity of outside
11 salesman (as such terms are defined and delimited from time to
12 time by regulations of the secretary, except that an employe of
13 a retail or service establishment shall not be excluded from the
14 definition of employe employed in a bona fide executive or
15 administrative capacity because of the number of hours in his
16 workweek which he devotes to activities not directly or closely
17 related to the performance of executive administrative
18 activities, if less than forty percent of his hours worked in
19 the workweek are devoted to such activities);

20 (6) In the activities of an educational, charitable,
21 religious or nonprofit organization where the employer-employe
22 relationship does not in fact exist or where the services are
23 rendered to such organization gratuitously;

24 (7) In seasonal employment, if the employe is under eighteen
25 years of age, or if a student under twenty-four years of age, by
26 a nonprofit health or welfare agency engaged in activities
27 dealing with handicapped or exceptional children or by a
28 nonprofit day or resident seasonal recreational camp for campers
29 under the age of eighteen years, which operates for a period of
30 less than three months in any one year;

1 (9) In employment by an establishment which is a public
2 amusement or recreational establishment, organized camp, or
3 religious or nonprofit educational conference center, if (i) it
4 does not operate for more than seven months in any calendar
5 year, or (ii) during the preceding calendar year, its average
6 receipts for any six months of such year were not more than
7 thirty-three and one-third percent of its average receipts for
8 the other six months of such year;

9 (10) Golf caddy;

10 (11) In employment as a switchboard operator employed by an
11 independently owned public telephone company which has not more
12 than seven hundred and fifty stations;

13 (12) Employees not subject to civil service laws who hold
14 elective office or are on the personal staff of such an
15 officeholder, are immediate advisers to him, or are appointed by
16 him to serve on a policy-making level.

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

19 (1) Seaman;

20 (2) Any salesman, partsman, or mechanic primarily engaged in
21 selling and servicing automobiles, trailers, trucks, farm
22 implements, or aircraft if employed by a nonmanufacturing
23 establishment primarily engaged in the business of selling such
24 vehicles to ultimate purchasers;

25 (3) Any driver employed by an employer engaged in the
26 business of operating taxicabs;

27 (4) Any employe employed as an announcer, news editor, or
28 chief engineer by a radio or television station, the major
29 studio of which is located (i) in a city or town of one hundred
30 thousand population or less, according to the latest available

1 decennial census figures as compiled by the Bureau of the
2 Census, except where such city or town is part of a standard
3 metropolitan statistical area, as defined and designated by the
4 Bureau of the Budget, which has a total population in excess of
5 one hundred thousand, or (ii) in a city or town of twenty-five
6 thousand population or less, which is part of such an area but
7 is at least forty airline miles from the principal city in such
8 area;

9 (5) Any employe engaged in the processing of maple sap into
10 sugar (other than refined sugar) or syrup;

11 (6) Employment by an establishment which is a motion picture
12 theatre;

13 (7) Any employe of a motor carrier with respect to whom the
14 Federal Secretary of Transportation has power to establish
15 qualifications and maximum hours of service under 49 U.S.C. §
16 3102(b)(1) and (2) (relating to requirements for qualifications,
17 hours of service, safety and equipment standards)[.];

18 (8) In domestic service employment hired to provide
19 companionship services for an individual who, because of age or
20 infirmity, is unable to care for himself.

21 Section 2. This act shall take effect in 60 days.