

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 REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 12, 2011

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 5(b) of the act of January 17, 1968
13 (P.L.11, No.5), known as The Minimum Wage Act of 1968, amended
14 July 9, 2006 (P.L.1077, No.112), is amended by adding a
15 paragraph to read:



16 SECTION 1. SECTION 4 OF THE ACT OF JANUARY 17, 1968 (P.L.11,
17 NO.5), KNOWN AS THE MINIMUM WAGE ACT OF 1968, AMENDED JULY 9,
18 2006 (P.L.1077, NO.112), IS AMENDED TO READ:



19 SECTION 4. MINIMUM WAGES.--EXCEPT AS MAY OTHERWISE BE
20 PROVIDED UNDER THIS ACT:

1 (A) EVERY EMPLOYER SHALL PAY TO EACH OF HIS OR HER EMPLOYEES
2 WAGES FOR ALL HOURS WORKED AT A RATE OF NOT LESS THAN:

3 (1) TWO DOLLARS SIXTY-FIVE CENTS (\$2.65) AN HOUR UPON THE
4 EFFECTIVE DATE OF THIS AMENDMENT.

5 (2) TWO DOLLARS NINETY CENTS (\$2.90) AN HOUR DURING THE YEAR
6 BEGINNING JANUARY 1, 1979.

7 (3) THREE DOLLARS TEN CENTS (\$3.10) AN HOUR DURING THE YEAR
8 BEGINNING JANUARY 1, 1980.

9 (4) THREE DOLLARS THIRTY-FIVE CENTS (\$3.35) AN HOUR AFTER
10 DECEMBER 31, 1980.

11 (5) THREE DOLLARS SEVENTY CENTS (\$3.70) AN HOUR BEGINNING
12 FEBRUARY 1, 1989.

13 (6) FIVE DOLLARS FIFTEEN CENTS (\$5.15) AN HOUR BEGINNING
14 SEPTEMBER 1, 1997.

15 (7) SIX DOLLARS TWENTY-FIVE CENTS (\$6.25) AN HOUR BEGINNING
16 JANUARY 1, 2007.

17 (8) SEVEN DOLLARS FIFTEEN CENTS (\$7.15) AN HOUR BEGINNING
18 JULY 1, 2007.

19 (A.1) IF THE MINIMUM WAGE SET FORTH IN THE FAIR LABOR
20 STANDARDS ACT OF 1938 (52 STAT. 1060, 29 U.S.C. § 201 ET SEQ.)
21 IS INCREASED ABOVE THE MINIMUM WAGE REQUIRED UNDER THIS SECTION,
22 THE MINIMUM WAGE REQUIRED UNDER THIS SECTION SHALL BE INCREASED
23 BY THE SAME AMOUNTS AND EFFECTIVE THE SAME DATE AS THE INCREASES
24 UNDER THE FAIR LABOR STANDARDS ACT, AND THE PROVISIONS OF
25 SUBSECTION (A) ARE SUSPENDED TO THE EXTENT THEY DIFFER FROM
26 THOSE SET FORTH UNDER THE FAIR LABOR STANDARDS ACT.

27 (B) THE SECRETARY, TO THE EXTENT NECESSARY TO PREVENT
28 CURTAILMENT OF EMPLOYMENT OPPORTUNITIES, SHALL BY REGULATIONS
29 PROVIDE FOR THE EMPLOYMENT OF LEARNERS AND STUDENTS, UNDER
30 SPECIAL CERTIFICATES AT WAGES LOWER THAN THE MINIMUM WAGE

1 APPLICABLE UNDER THIS SECTION, AND SUBJECT TO SUCH LIMITATIONS
2 AS TO NUMBER, PROPORTION AND LENGTH OF SERVICE AS THE SECRETARY
3 SHALL PRESCRIBE: PROVIDED, THAT THE MINIMUM WAGE PRESCRIBED
4 UNDER THIS SUBSECTION (B) SHALL NOT BE LESS THAN EIGHTY-FIVE
5 PERCENT OF THE OTHERWISE APPLICABLE WAGE RATE IN EFFECT UNDER
6 SECTION 4. A SPECIAL CERTIFICATE ISSUED UNDER THIS SUBSECTION
7 SHALL PROVIDE THAT FOR SIX OR LESS STUDENTS FOR WHOM IT IS
8 ISSUED SHALL, EXCEPT DURING VACATION PERIODS, BE EMPLOYED ON A
9 PART-TIME BASIS AND NOT IN EXCESS OF TWENTY HOURS IN ANY
10 WORKWEEK AT A SUB-MINIMUM RATE.

11 IN THE CASE OF AN EMPLOYER WHO INTENDS TO EMPLOY SEVEN OR
12 MORE STUDENTS, AT A SUB-MINIMUM RATE, THE SECRETARY MAY ISSUE A
13 SPECIAL CERTIFICATE ONLY IF THE EMPLOYER CERTIFIES TO THE
14 SECRETARY THAT EMPLOYMENT OF SUCH STUDENTS WILL NOT CREATE A
15 SUBSTANTIAL PROBABILITY OF REDUCING THE FULL-TIME EMPLOYMENT
16 OPPORTUNITIES FOR OTHER WORKERS.

17 (C) EMPLOYES SHALL BE PAID FOR OVERTIME NOT LESS THAN ONE
18 AND ONE-HALF TIMES THE EMPLOYEE'S REGULAR RATE AS PRESCRIBED IN
19 REGULATIONS PROMULGATED BY THE SECRETARY: PROVIDED, THAT
20 STUDENTS EMPLOYED IN SEASONAL OCCUPATIONS AS DEFINED AND
21 DELIMITED BY REGULATIONS PROMULGATED BY THE SECRETARY MAY, BY
22 SUCH REGULATIONS, BE EXCLUDED FROM THE OVERTIME PROVISIONS OF
23 THIS ACT: AND PROVIDED FURTHER, THAT THE SECRETARY SHALL
24 PROMULGATE REGULATIONS WITH RESPECT TO OVERTIME SUBJECT TO THE
25 LIMITATIONS THAT NO PAY FOR OVERTIME IN ADDITION TO THE REGULAR
26 RATE SHALL BE REQUIRED EXCEPT FOR HOURS IN EXCESS OF FORTY HOURS
27 IN A WORKWEEK. AN EMPLOYER SHALL NOT BE IN VIOLATION OF THIS
28 SUBSECTION IF THE EMPLOYER IS ENTITLED TO UTILIZE, AND ACTS
29 CONSISTENTLY WITH, SECTION 7(J) OF THE FAIR LABOR STANDARDS ACT
30 OF 1938 (29 U.S.C. § 207(J)) AND REGULATIONS PROMULGATED UNDER

1 THAT PROVISION.

2 (D) AN EMPLOYE WHOSE EARNING CAPACITY IS IMPAIRED BY
3 PHYSICAL OR MENTAL DEFICIENCY OR INJURY MAY BE PAID LESS THAN
4 THE APPLICABLE MINIMUM WAGE IF EITHER A LICENSE SPECIFYING A
5 WAGE RATE COMMENSURATE WITH THE EMPLOYE'S PRODUCTIVE CAPACITY
6 HAS BEEN OBTAINED BY THE EMPLOYER FROM THE SECRETARY OR A
7 FEDERAL CERTIFICATE IS OBTAINED UNDER SECTION 14(C) OF THE FAIR
8 LABOR STANDARDS ACT OF 1938 (52 STAT. 1060, 29 U.S.C. § 201 ET
9 SEQ.). A LICENSE OBTAINED FROM THE SECRETARY SHALL BE GRANTED
10 ONLY UPON JOINT APPLICATION OF EMPLOYER AND EMPLOYE.

11 (E) IN LIEU OF THE MINIMUM WAGE PRESCRIBED IN SUBSECTION (A)
12 AND SECTION 5(C) AND NOTWITHSTANDING SUBSECTIONS (B) AND (D), AN
13 EMPLOYER MAY, DURING THE FIRST SIXTY CALENDAR DAYS WHEN AN
14 EMPLOYE UNDER THE AGE OF TWENTY YEARS IS INITIALLY EMPLOYED, PAY
15 THE EMPLOYE TRAINING WAGES AT A RATE OF NOT LESS THAN THE
16 MINIMUM WAGE SET FORTH IN SECTION 6(A) OF THE FAIR LABOR
17 STANDARDS ACT (29 U.S.C. § 206(A)). A PERSON EMPLOYED AT THE
18 TRAINING WAGE UNDER THIS SUBSECTION SHALL BE INFORMED OF THE
19 AMOUNT OF THE TRAINING WAGE AND THE RIGHT TO RECEIVE THE FULL
20 MINIMUM WAGE, OR A HIGHER WAGE, UPON COMPLETION OF THE TRAINING
21 PERIOD. NO EMPLOYER MAY TAKE ANY ACTION TO DISPLACE EXISTING
22 EMPLOYES, INCLUDING PARTIAL DISPLACEMENTS SUCH AS REDUCTION IN
23 THE HOURS, WAGES OR EMPLOYMENT BENEFITS OF EXISTING EMPLOYES,
24 FOR PURPOSES OF HIRING INDIVIDUALS AT THE TRAINING WAGE
25 AUTHORIZED BY THIS SUBSECTION.

26 SECTION 2. SECTION 5(B) OF THE ACT IS AMENDED BY ADDING A
27 PARAGRAPH TO READ:

28 Section 5. Exemptions.--* * *

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

1 * * *

2 (8) ~~An~~ THE HOURS OF AN employe of an air carrier subject to ←
3 the provisions of Title II of the Railway Labor Act (~~Public Law~~ ←
4 ~~69-257,~~ 44 Stat. 577, 45 U.S.C. § 181 ET SEQ.) when the hours ←
5 ARE VOLUNTARILY worked by the employe ~~in excess of forty in a~~ ←
6 ~~workweek are arranged through a voluntary agreement among~~
7 ~~employes to trade scheduled work hours~~ PURSUANT TO A SHIFT- ←
8 TRADING PRACTICE UNDER WHICH THE EMPLOYE HAS THE OPPORTUNITY TO
9 REDUCE HOURS WORKED IN ANY WORKWEEK BY VOLUNTARILY OFFERING A
10 SHIFT FOR TRADE OR REASSIGNMENT.

11 * * *

12 Section 2 3. This act shall take effect ~~in 60 days~~ ←
13 IMMEDIATELY. ←