

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1099** Session of
2011

INTRODUCED BY VANCE, ERICKSON, TARTAGLIONE, BROWNE, ARGALL,
M. WHITE, BAKER, BRUBAKER, EARLL, EICHELBERGER, FERLO, ORIE,
RAFFERTY, ROBBINS, WAUGH AND FOLMER, JUNE 3, 2011

SENATOR GORDNER, LABOR AND INDUSTRY, AS AMENDED, OCTOBER 18,
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.

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 July 9,
13 2006 (P.L.1077, No.112), is amended to read:

14 Section 4. Minimum Wages.--Except as may otherwise be
15 provided under this act:

16 (a) Every employer shall pay to each of his or her employes
17 wages for all hours worked at a rate of not less than:

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

20 (2) Two dollars ninety cents (\$2.90) an hour during the year

1 beginning January 1, 1979.

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

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

6 (5) Three dollars seventy cents (\$3.70) an hour beginning
7 February 1, 1989.

8 (6) Five dollars fifteen cents (\$5.15) an hour beginning
9 September 1, 1997.

10 (7) Six dollars twenty-five cents (\$6.25) an hour beginning
11 January 1, 2007.

12 (8) Seven dollars fifteen cents (\$7.15) an hour beginning
13 July 1, 2007.

14 (a.1) If the minimum wage set forth in the Fair Labor
15 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.)
16 is increased above the minimum wage required under this section,
17 the minimum wage required under this section shall be increased
18 by the same amounts and effective the same date as the increases
19 under the Fair Labor Standards Act, and the provisions of
20 subsection (a) are suspended to the extent they differ from
21 those set forth under the Fair Labor Standards Act.

22 (b) The secretary, to the extent necessary to prevent
23 curtailment of employment opportunities, shall by regulations
24 provide for the employment of learners and students, under
25 special certificates at wages lower than the minimum wage
26 applicable under this section, and subject to such limitations
27 as to number, proportion and length of service as the secretary
28 shall prescribe: Provided, That the minimum wage prescribed
29 under this subsection (b) shall not be less than eighty-five
30 percent of the otherwise applicable wage rate in effect under

1 section 4. A special certificate issued under this subsection
2 shall provide that for six or less students for whom it is
3 issued shall, except during vacation periods, be employed on a
4 part-time basis and not in excess of twenty hours in any
5 workweek at a sub-minimum rate.

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

12 (c) Employes shall be paid for overtime not less than one
13 and one-half times the employe's regular rate as prescribed in
14 regulations promulgated by the secretary: Provided, That
15 students employed in seasonal occupations as defined and
16 delimited by regulations promulgated by the secretary may, by
17 such regulations, be excluded from the overtime provisions of
18 this act: And provided further, That the secretary shall
19 promulgate regulations with respect to overtime subject to the
20 limitations that no pay for overtime in addition to the regular
21 rate shall be required except for hours in excess of forty hours
22 in a workweek. ~~Employes may utilize the overtime arrangement~~ ←
23 ~~described in section 207(j) of the Fair Labor Standards Act (29~~
24 ~~U.S.C. § 207(j)) in hospitals and establishments engaged in the~~
25 ~~care of the sick, aged or mentally ill. AN EMPLOYER SHALL NOT BE~~ ←
26 ~~IN VIOLATION OF THIS SUBSECTION IF THE EMPLOYER IS ENTITLED TO~~
27 ~~UTILIZE, AND ACTS CONSISTENTLY WITH, SECTION 7(J) OF THE FAIR~~
28 ~~LABOR STANDARDS ACT OF 1938 (29 U.S.C. § 207(J)) AND REGULATIONS~~
29 ~~PROMULGATED UNDER THAT PROVISION.~~

30 (d) An employe whose earning capacity is impaired by

1 physical or mental deficiency or injury may be paid less than
2 the applicable minimum wage if either a license specifying a
3 wage rate commensurate with the employe's productive capacity
4 has been obtained by the employer from the secretary or a
5 Federal certificate is obtained under section 14(c) of the Fair
6 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et
7 seq.). A license obtained from the secretary shall be granted
8 only upon joint application of employer and employe.

9 (e) In lieu of the minimum wage prescribed in subsection (a)
10 and section 5(c) and notwithstanding subsections (b) and (d), an
11 employer may, during the first sixty calendar days when an
12 employe under the age of twenty years is initially employed, pay
13 the employe training wages at a rate of not less than the
14 minimum wage set forth in section 6(a) of the Fair Labor
15 Standards Act (29 U.S.C. § 206(a)). A person employed at the
16 training wage under this subsection shall be informed of the
17 amount of the training wage and the right to receive the full
18 minimum wage, or a higher wage, upon completion of the training
19 period. No employer may take any action to displace existing
20 employes, including partial displacements such as reduction in
21 the hours, wages or employment benefits of existing employes,
22 for purposes of hiring individuals at the training wage
23 authorized by this subsection.

24 ~~Section 2. The amendment of section 4 of the act shall apply~~ ←
25 ~~retroactively to March 1, 2010.~~

26 SECTION 2. APPLICABILITY IS AS FOLLOWS: ←

27 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE AMENDMENT
28 OF SECTION 4 OF THE ACT SHALL APPLY RETROACTIVELY TO MARCH 1,
29 2010.

30 (2) PARAGRAPH (1) SHALL NOT APPLY:

1 (I) TO ALTER A COLLECTIVE BARGAINING AGREEMENT IN
2 EFFECT ON MARCH 1, 2010; OR

3 (II) TO LITIGATION INITIATED PRIOR TO THE EFFECTIVE
4 DATE OF THIS SECTION.

5 Section 3. This act shall take effect immediately.