
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 436 Session of
2015

INTRODUCED BY COHEN, BISHOP, V. BROWN, BROWNLEE, CALTAGIRONE,
DAWKINS, DRISCOLL, HARKINS, KINSEY, MAHONEY, C. PARKER AND
SCHLOSSBERG, FEBRUARY 10, 2015

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 10, 2015

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 definitions and for minimum
9 wages; providing for reporting by the department; and
10 repealing preemption provision.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 3(d) of the act of January 17, 1968
14 (P.L.11, No.5), known as The Minimum Wage Act of 1968, amended
15 July 9, 2006 (P.L.1077, No.112), is amended to read:

16 Section 3. Definitions.--As used in this act:

17 * * *

18 (d) "Wages" mean compensation due to any employe by reason
19 of his or her employment, payable in legal tender of the United
20 States or checks on banks convertible into cash on demand at
21 full face value, subject to such deductions, charges or

1 allowances as may be permitted by regulations of the secretary
2 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 or her employes: Provided, That the cost of
8 board, lodging, or other facilities shall not be included as a
9 part of the wage paid to any employe to the extent it is
10 excluded therefrom under the terms of a bona fide collective-
11 bargaining agreement applicable to the particular employe:
12 Provided, further, That the secretary is authorized to determine
13 the fair value of such board, lodging, or other facilities for
14 defined classes of employes and in defined areas, based on
15 average cost to the employer or to groups of employers similarly
16 situated, or average value to groups of employes, or other
17 appropriate measures of fair value. Such evaluations, where
18 applicable and pertinent, shall be used in lieu of actual
19 measure of cost in determining the wage paid to any employe.

20 In determining the hourly wage an employer is required to pay
21 a tipped employe, the amount paid such employe by his or her
22 employer shall be an amount equal to: (i) the cash wage paid the
23 employe which for the purposes of the determination shall be not
24 less than the cash wage required to be paid the employe [on the
25 date immediately prior to the effective date of this
26 subparagraph] under section 4 of this act; and (ii) an
27 additional amount on account of the tips received by the employe
28 which is equal to the difference between the wage specified in
29 subparagraph (i) and the wage in effect under section 4 of this
30 act. The additional amount on account of tips may not exceed the

1 value of tips actually received by the employe. The previous
2 sentence shall not apply with respect to any tipped employe
3 unless:

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

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

15 * * *

16 Section 2. Section 4(a) of the act, amended July 5, 2012
17 (P.L.987, No.109), is amended to read:

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

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

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

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

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

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

30 (5) Three dollars seventy cents (\$3.70) an hour beginning

1 February 1, 1989.

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

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

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

8 (9) Nine dollars (\$9) an hour beginning sixty days after the
9 effective date of this paragraph.

10 (10) Ten dollars ten cents (\$10.10) an hour beginning four
11 hundred twenty-five days after the effective date of this
12 paragraph.

13 (11) Eleven dollars fifty cents (\$11.50) an hour beginning
14 seven hundred ninety days after the effective date of this
15 paragraph.

16 (12) Beginning January 1, 2017, and each succeeding January
17 1 thereafter, the minimum wage shall be increased by an annual
18 cost-of-living adjustment calculated by applying the percentage
19 change in the Consumer Price Index for All Urban Consumers (CPI-
20 U) for the Pennsylvania, New Jersey, Delaware and Maryland area,
21 for the most recent twelve-month period for which figures have
22 been officially reported by the United States Department of
23 Labor, Bureau of Labor Statistics sixty days prior to the date
24 the adjustment is due to take effect, to the then current
25 minimum wage amount and rounded to the nearest multiple of five
26 cents (5¢). The percentage increase and the minimum wage amounts
27 shall be determined by the secretary as herein prescribed and
28 public notice given in the Pennsylvania Bulletin within ten days
29 of the date such determination is made.

30 (13) For a tipped employe who customarily and regularly

1 receives tips, but who actually receives in tips an amount equal
2 to the rate otherwise applicable under this section:

3 (i) three dollars eighty-three cents (\$3.83) an hour in cash
4 wages beginning on the effective date of this paragraph;

5 (ii) four dollars eighty-three cents (\$4.83) an hour in cash
6 wages beginning three hundred sixty-five days after the
7 effective date of this paragraph; and

8 (iii) seventy percent (70%) of the rate otherwise applicable
9 under this section or the Fair Labor Standards Act of 1938 (52
10 Stat. 1060, 29 U.S.C. § 201 et seq.), whichever is greater, an
11 hour in cash wages beginning seven hundred thirty days after the
12 effective date of this paragraph.

13 * * *

14 Section 3. The act is amended by adding a section to read:

15 Section 13.1. Reporting by Department.

16 The department shall collect information of the number of
17 employers who violate the provisions of this act, including the
18 amount of fines imposed for violations, and shall publish the
19 information on the department's publicly accessible Internet
20 website. The department shall update the information every six
21 months.

22 Section 4. Section 14.1 of the act is repealed:

23 [Section 14.1. Preemption.--(a) Except as set forth in
24 subsection (b), this act shall preempt and supersede any local
25 ordinance or rule concerning the subject matter of this act.

26 (b) This section does not prohibit local regulation pursuant
27 to an ordinance which was adopted by a municipality prior to
28 January 1, 2006, and which remained in effect on January 1,
29 2006.]

30 Section 5. Any and all regulations are hereby abrogated to

1 the extent of any inconsistency with this act.

2 Section 6. This act shall take effect immediately.