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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1520 Session of  
2017

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INTRODUCED BY KIM, CALTAGIRONE, DEAN, BRIGGS, RABB, SOLOMON,  
DERMODY, SCHLOSSBERG, CARROLL, SAMUELSON, YOUNGBLOOD, HANNA,  
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KORTZ, DALEY, HARKINS, COMMITTA, FITZGERALD, McCLINTON,  
KINSEY, GOODMAN, DAVIS, BULLOCK, THOMAS, WHEATLEY, ROEBUCK,  
HILL-EVANS, DRISCOLL, DeLUCA, PASHINSKI, O'BRIEN, FLYNN,  
RAVENSTAHL, McNEILL, McCARTER, MULLERY, KULIK AND NEILSON,  
JUNE 9, 2017

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 9, 2017

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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 tipped employees; further providing for  
10 minimum wage advisory board and for enforcement and rules and  
11 regulations; providing for rules and regulations; and further  
12 providing for civil actions.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Section 3(d) and (i) of the act of January 17,  
16 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, are  
17 amended and the section is amended by adding a subsection to  
18 read:

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

1 \* \* \*

2 (d) "Wages" mean compensation due to any employe by reason  
3 of his or her employment, payable in legal tender of the United  
4 States or checks on banks convertible into cash on demand at  
5 full face value, subject to such deductions, charges or  
6 allowances as may be permitted by regulations of the secretary  
7 under section [9] 9.1.

8 "Wage" paid to any employe includes the reasonable cost, as  
9 determined by the secretary, to the employer for furnishing such  
10 employe with board, lodging, or other facilities, if such board,  
11 lodging, or other facilities are customarily furnished by such  
12 employer to his or her employes: Provided, That the cost of  
13 board, lodging, or other facilities shall not be included as a  
14 part of the wage paid to any employe to the extent it is  
15 excluded therefrom under the terms of a bona fide collective-  
16 bargaining agreement applicable to the particular employe:  
17 Provided, further, That the secretary is authorized to determine  
18 the fair value of such board, lodging, or other facilities for  
19 defined classes of employes and in defined areas, based on  
20 average cost to the employer or to groups of employers similarly  
21 situated, or average value to groups of employes, or other  
22 appropriate measures of fair value. Such evaluations, where  
23 applicable and pertinent, shall be used in lieu of actual  
24 measure of cost in determining the wage paid to any employe.

25 [In determining the hourly wage an employer is required to  
26 pay a tipped employe, the amount paid such employe by his or her  
27 employer shall be an amount equal to: (i) the cash wage paid the  
28 employe which for the purposes of the determination shall be not  
29 less than the cash wage required to be paid the employe on the  
30 date immediately prior to the effective date of this

1 subparagraph; and (ii) an additional amount on account of the  
2 tips received by the employe which is equal to the difference  
3 between the wage specified in subparagraph (i) and the wage in  
4 effect under section 4 of this act. The additional amount on  
5 account of tips may not exceed the value of tips actually  
6 received by the employe. The previous sentence shall not apply  
7 with respect to any tipped employe unless:

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

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

19 \* \* \*

20 (i) ["Gratuities"] "Gratuity" or "tip" means a voluntary,  
21 monetary [contributions] contribution received by an employe  
22 from a guest, patron or customer for services rendered.

23 (j) "Tipped employe" means an employe who customarily and  
24 regularly receives a gratuity during the course of the employe's  
25 employment.

26 Section 2. Section 4(a) of the act is amended by adding  
27 paragraphs to read:

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

30 (a) Every employer shall pay to each of his or her employes

1 wages 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) an hour beginning  
11 February 1, 1989.

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

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

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

18 (9) Twelve dollars (\$12.00) an hour beginning January 1,  
19 2018.

20 (10) Twelve dollars fifty cents (\$12.50) an hour beginning  
21 January 1, 2019.

22 (11) Thirteen dollars (\$13.00) an hour beginning January 1,  
23 2020.

24 (12) Thirteen dollars fifty cents (\$13.50) an hour beginning  
25 January 1, 2021.

26 (13) Fourteen dollars (\$14.00) an hour beginning January 1,  
27 2022.

28 (14) Fourteen dollars fifty cents (\$14.50) an hour beginning  
29 January 1, 2023.

30 (15) Fifteen dollars (\$15.00) an hour beginning January 1,

1 2024.

2 (16) Beginning January 1, 2025, and for each succeeding  
3 January 1 thereafter, the minimum wage shall be increased by an  
4 annual cost-of-living adjustment calculated by the secretary  
5 using the percentage change in the Consumer Price Index for All  
6 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,  
7 Delaware and Maryland area. In calculating the adjustment, the  
8 secretary shall use the most recent twelve-month period for  
9 which figures have been officially reported by the United States  
10 Department of Labor, Bureau of Labor Statistics. At least sixty  
11 days prior to the date the adjustment is due to take effect, the  
12 percentage increase and the minimum wage amount, rounded to the  
13 nearest multiple of five cents (5¢), shall be determined by the  
14 secretary. The secretary shall, within ten days following the  
15 determination, forward a notice of the determination to the  
16 Legislative Reference Bureau for publication in the next  
17 Pennsylvania Bulletin.

18 \* \* \*

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

20 Section 4.1. Tipped Employes.--(a) An employer shall pay a  
21 tipped employe wages for all hours worked at a rate of not less  
22 than:

23 (1) Nine dollars (\$9.00) an hour upon the effective date of  
24 this section.

25 (2) Nine dollars thirty-eight cents (\$9.38) an hour  
26 beginning January 1, 2019.

27 (3) Nine dollars seventy-five cents (\$9.75) an hour  
28 beginning January 1, 2020.

29 (4) Ten dollars thirteen cents (\$10.13) an hour beginning  
30 January 1, 2021.

1 (5) Ten dollars fifty cents (\$10.50) an hour beginning  
2 January 1, 2022.

3 (6) Ten dollars eighty-eight cents (\$10.88) an hour  
4 beginning January 1, 2023.

5 (7) Twelve dollars (\$12.00) an hour beginning January 1,  
6 2024.

7 (8) Beginning January 1, 2025, and for each succeeding  
8 January 1 thereafter, the minimum wage shall be increased by an  
9 annual cost-of-living adjustment calculated by the secretary  
10 using the percentage change in the Consumer Price Index for All  
11 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,  
12 Delaware and Maryland area. In calculating the adjustment, the  
13 secretary shall use the most recent twelve-month period for  
14 which figures have been officially reported by the United States  
15 Department of Labor, Bureau of Labor Statistics. At least sixty  
16 days prior to the date the adjustment is due to take effect, the  
17 percentage increase and the minimum wage amount, rounded to the  
18 nearest multiple of five cents (5¢), shall be determined by the  
19 secretary. The secretary shall, within ten days following the  
20 determination, forward a notice of the determination to the  
21 Legislative Reference Bureau for publication in the next  
22 Pennsylvania Bulletin.

23 (b) The following shall apply:

24 (1) Each tipped employe shall be informed in writing by the  
25 employer, no later than twenty days after the effective date of  
26 this section, that the tipped employe will be paid not less than  
27 the appropriate minimum wage under subsection (a).

28 (2) Each gratuity received by the employe shall be retained  
29 by the employe and shall not be surrendered or paid to the  
30 employer. This paragraph shall not be deemed to prohibit the

1 pooling of gratuities among tipped employes.

2 (3) If a gratuity is added, either by the employer or  
3 manager of the establishment or by the guest, patron or  
4 customer, to the charge to the guest, patron or customer, the  
5 gratuity shall become the property of the tipped employe and  
6 shall not be used by the employer to satisfy the requirement to  
7 pay the wage then in effect.

8 Section 4. Sections 6(e)(2) and 9 of the act are amended to  
9 read:

10 Section 6. Minimum Wage Advisory Board.--\* \* \*

11 (e) The board shall have the power and duty to:

12 \* \* \*

13 (2) conduct public hearings at the request of the secretary  
14 in order to develop rules and regulations in accordance with  
15 section [9] 9.1 of this act, in which hearings due process of  
16 law shall be observed and any person may appear and be heard or  
17 file statements in support of his or her position;

18 \* \* \*

19 Section 9. [Enforcement; Rules and Regulations.--The  
20 secretary shall enforce this act. The secretary shall make and,  
21 from time to time, revise regulations, with the assistance of  
22 the board, when requested by the secretary, which shall be  
23 deemed appropriate to carry out the purposes of this act and to  
24 safeguard the minimum wage rates thereby established. Such  
25 regulations may include, but are not limited to, regulations  
26 defining and governing bona fide executive, administrative, or  
27 professional employes and outside salespersons, learners and  
28 apprentices, their number, proportion, length of learning  
29 period, and other working conditions; handicapped workers; part-  
30 time pay; overtime standards; bonuses; allowances for board,

1 lodging, apparel, or other facilities or services customarily  
2 furnished by employers to employes; allowances for gratuities;  
3 or allowances for such other special conditions or circumstances  
4 which may be incidental to a particular employer-employee  
5 relationship.] Enforcement.--(a) The secretary shall have the  
6 authority to investigate claims of violations of this act and to  
7 assess administrative penalties under section 12 of this act.

8 (b) The Attorney General and the district attorneys of the  
9 several counties shall have concurrent jurisdiction to bring  
10 action for a criminal violation of this act under section 12 of  
11 this act. A person charged by the Attorney General does not have  
12 standing to challenge the authority of the Attorney General to  
13 prosecute the action. If a challenge is made, the challenge  
14 shall be dismissed and no relief may be available in the courts  
15 of this Commonwealth to the person making the challenge.

16 Section 5. The act is amended by adding a section to read:

17 Section 9.1. Rules and Regulations.--(a) The secretary  
18 shall make and revise regulations, with the assistance of the  
19 board, to carry out the purposes of this act and to safeguard  
20 the payment of the wage rates established under this act.

21 (b) The regulations may include regulations defining and  
22 governing any of the following:

23 (1) Bona fide executive, administrative or professional  
24 employes and outside salespersons.

25 (2) Learners and apprentices and the number, proportion,  
26 length of learning period and other working conditions of  
27 learners and apprentices.

28 (3) Handicapped workers.

29 (4) Part-time pay.

30 (5) Overtime standards.



1       (6) Bonuses.

2       (7) Allowances for apparel, board, lodging or other  
3 facilities or services customarily furnished by employers to  
4 employees.

5       (8) Allowances for gratuities.

6       (9) Allowances for other special conditions or circumstances  
7 that may be incidental to a particular employer-employee  
8 relationship.

9       Section 6. Section 13 of the act is amended to read:

10       Section 13. Civil Actions.--(a) If any employee is paid by  
11 his or her employer less than the minimum wages provided by  
12 section 4 of this act or by any regulation issued thereunder,  
13 such [worker] employee may recover in a civil action the full  
14 amount of such minimum wage less any amount actually paid to the  
15 [worker] employee by the employer, together with costs and such  
16 reasonable attorney's fees as may be allowed by the court, and  
17 any agreement between the employer and the [worker] employee to  
18 work for less than such minimum wage shall be no defense to such  
19 action.

20       (b) At the request of any employee paid less than the minimum  
21 wage to which such employee was entitled under this act and  
22 regulations issued [thereunder] under this act, the secretary  
23 may take an assignment of such wage claim, in trust for the  
24 assigning [worker] employee and may bring any legal action  
25 necessary to collect such claim, and the employer shall be  
26 required to pay the cost and such reasonable attorney's fees as  
27 may be allowed by the court.

28       Section 7. This act shall take effect as follows:

29               (1) The amendment of the definition of "wage" under  
30       section 3(d) of the act and the addition of section 4.1 of

1 the act shall take effect in six months.

2 (2) The remainder of this act shall take effect  
3 immediately.