
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2693 Session of
2018

INTRODUCED BY RABB, McCLINTON, SCHLOSSBERG, J. HARRIS, KINSEY,
ROEBUCK, A. DAVIS, DeLUCA, SOLOMON, YOUNGBLOOD, DONATUCCI,
WARREN, TAI, SIMS, SCHWEYER, DALEY, NEILSON, J. McNEILL AND
BULLOCK, OCTOBER 3, 2018

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 3, 2018

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; providing for
9 tipped employees; and further providing for preemption.

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

12 Section 1. Section 3(d) and (i) of the act of January 17,
13 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, are
14 amended and the section is amended by adding a subsection to
15 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

1 full face value, subject to such deductions, charges or
2 allowances as may be permitted by regulations of the secretary
3 under section 9.

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

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

1 account of tips may not exceed the value of tips actually
2 received by the employe. The previous sentence shall not apply
3 with respect to any tipped employe 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 (i) ["Gratuities"] "Gratuity" or "tip" means a voluntary,
17 monetary [contributions] contribution received by an employe
18 from a guest, patron or customer for services rendered.

19 (j) "Tipped employe" means an employe who customarily and
20 regularly receives a gratuity during the course of the employe's
21 employment.

22 Section 2. The act is amended by adding a section to read:

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

26 (1) Twelve dollars (\$12.00) an hour beginning January 1,
27 2024.

28 (2) Thirteen dollars (\$13.00) an hour beginning January 1,
29 2025.

30 (3) Fourteen dollars (\$14.00) an hour beginning January 1,

1 2026.

2 (4) Beginning January 1, 2027, the minimum wage under
3 section 4 or fifteen dollars (\$15.00), whichever is greater.

4 (5) Beginning January 1, 2028, and for each succeeding
5 January 1 thereafter, the minimum wage shall be increased by an
6 annual cost-of-living adjustment calculated by the secretary
7 using the percentage change in the Consumer Price Index for All
8 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,
9 Delaware and Maryland area. In calculating the adjustment, the
10 secretary shall use the most recent twelve-month period for
11 which figures have been officially reported by the United States
12 Department of Labor, Bureau of Labor Statistics. At least sixty
13 days prior to the date the adjustment is due to take effect, the
14 percentage increase and the minimum wage amount, rounded to the
15 nearest multiple of five cents (5¢), shall be determined by the
16 secretary. The secretary shall, within ten days following the
17 determination, forward a notice of the determination to the
18 Legislative Reference Bureau for publication in the next
19 Pennsylvania Bulletin.

20 (a.1) A municipality may enact an ordinance which requires
21 an employer to pay each of his or her employes wages for all
22 hours worked at a rate higher than the rate imposed under
23 subsection (a). A copy of an ordinance adopted by a municipality
24 under this subsection shall be submitted to the department.

25 (b) The following shall apply:

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

30 (2) Each gratuity received by the employe shall be retained

1 by the employe and shall not be surrendered or paid to the
2 employer. This paragraph shall not be deemed to prohibit the
3 pooling of gratuities among tipped employes.

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

10 Section 3. Section 14.1 of the act is amended to read:

11 Section 14.1. Preemption.--(a) Except as set forth in
12 subsection (b) or section 4.1(a.1), this act shall preempt and
13 supersede any local ordinance or rule concerning the subject
14 matter of this act.

15 (b) This section does not prohibit local regulation pursuant
16 to an ordinance which was adopted by a municipality prior to
17 January 1, 2006, and which remained in effect on January 1,
18 2006.

19 Section 4. The addition of section 4.1(a.1) of the act shall
20 apply to contracts entered into or renewed on or after the
21 effective date of this section.

22 Section 5. This act shall take effect as follows:

23 (1) The amendment of the definition of "wage" under
24 section 3(d) of the act and the addition of section 4.1 of
25 the act shall take effect in six months.

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