THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 587 Session of 2017

INTRODUCED BY BAKER, MARTIN, GORDNER, FOLMER, RAFFERTY AND MENSCH, APRIL 7, 2017

REFERRED TO LABOR AND INDUSTRY, APRIL 7, 2017

AN ACT

1 Providing for statutory construction of Pennsylvania wage and
2   hour laws.

3   The General Assembly of the Commonwealth of Pennsylvania

4 hereby enacts as follows:

5 Section 1. Short title.

6   This act shall be known and may be cited as the Statutory

7 Construction of Wage and Hour Laws Act.

8 Section 2. Declaration of purpose.

9   The General Assembly finds and declares as follows:

10   (1) Many employers in this Commonwealth are subject to

11   dual coverage under the Fair Labor Standards Act of 1938 (52

12   Stat. 1060, 29 U.S.C. § 201 et seq.) and the act of January

13   17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of

14   1968.

15   (2) The Congress of the United States and the United

16   States Department of Labor have a robust history of amending

17   and revising the Fair Labor Standards Act of 1938 and its

18   implementing regulations and interpretive guidance, including

1   29 U.S.C. Ch. 9 (relating to portal-to-portal pay) and 29 CFR

2   Pt. 541 (relating to defining and delimiting the exemptions

3   for executive, administrative, professional, computer and

4   outside sales employees).

5   (3) The General Assembly seeks to avoid, to the greatest

6   extent possible and consistent with the public policy of the

7   Commonwealth, the burdening of employers and employees with

8   two different sets of Federal and State standards.

9   (4) As a result of the General Assembly and the

10   Department of Labor and Industry of the Commonwealth failing

11   to update in accordance with the amendments and revisions to

12   the Fair Labor Standards Act of 1938 and its implementing

13   regulations and interpretive guidance, unintended

14   discrepancies have arisen between Federal and State law.

15   (5) The discrepancies between Federal and State law have

16   caused confusion for employers and employees and have

17   resulted in instances in which good faith compliance with

18   Federal law has nonetheless been deemed to be in violation of

19   State law.

20   Section 3. Construction of The Minimum Wage Act of 1968.

21   The following apply:

22   (1) The act of January 17, 1968 (P.L.11, No.5), known as

23   The Minimum Wage Act of 1968, shall be construed in pari

24   materia with 29 U.S.C. Ch. 9 (relating to portal-to-portal

25   pay) and sections 7 and 13 and the other provisions of the

26   Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. §

27   201 et seq.), including regulations in effect on or after the

28   effective date of this act.

29   (2) The minimum cash wage for tipped employees shall be

30   $2.83 per hour. If the minimum cash wage for tipped employees

1   set forth in the Fair Labor Standards Act of 1938 is

2   increased above the minimum cash wage required under this

3   section, the minimum cash wage required under this section

4   shall be increased by the same amounts and effective the same

5   date as the increases under the Fair Labor Standards Act of

6   1938. The Secretary of Labor and Industry shall publish

7   notice in the Pennsylvania Bulletin of any increase to the

8   minimum cash wage as provided by this paragraph.

9 Section 4. Construction of this act.

10 Nothing in this act shall be construed:

11   (1) to modify or repeal the act of October 9, 2008

12   (P.L.1376, No.102), known as the Prohibition of Excessive

13   Overtime in Health Care Act; or

14   (2) to preempt Federal law or to otherwise excuse

15   noncompliance with any Federal law establishing a higher

16   standard than the standard established under the act of

17   January 17, 1968 (P.L.11, No.5), known as The Minimum Wage

18   Act of 1968.

19 Section 5. Repeals.

20 All acts and parts of acts are repealed insofar as they are

21 inconsistent with this act.

22 Section 6. Abrogation of regulations.

23 All regulations and parts of regulations are abrogated

24 insofar as they are inconsistent with this act.

25 Section 7. Effective date.

26 This act shall take effect in 30 days.