
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 12 Session of
2019

INTRODUCED BY TARTAGLIONE, HAYWOOD, HUGHES, LEACH, FONTANA,
STREET, COLLETT, L. WILLIAMS, FARNESE, SCHWANK, BLAKE,
BREWSTER, SANTARSIERO, MUTH, YUDICHAK, KEARNEY, DINNIMAN,
SABATINA, COSTA AND A. WILLIAMS, MARCH 22, 2019

REFERRED TO LABOR AND INDUSTRY, MARCH 22, 2019

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 gratuities; further providing for
10 enforcement and rules and regulations, for penalties and for
11 civil actions; repealing provisions relating to preemption;
12 and providing for taxpayer savings and reinvestment.

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

15 Section 1. Sections 3(d) and 4(a) of the act of January 17,
16 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, are
17 amended to read:

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

19 * * *

20 (d) "Wages" mean compensation due to any employe by reason
21 of his or her employment, payable in legal tender of the United
22 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 Section 4. Minimum Wages.--Except as may otherwise be
17 provided under this act:

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

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

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

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

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

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

30 (6) Five dollars fifteen cents (\$5.15) an hour beginning

1 September 1, 1997.

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

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

6 (9) Twelve dollars (\$12) an hour beginning July 1, 2019.

7 (10) Twelve dollars fifty cents (\$12.50) an hour beginning
8 July 1, 2020.

9 (11) Thirteen dollars (\$13) an hour beginning July 1, 2021.

10 (12) Thirteen dollars fifty cents (\$13.50) an hour beginning
11 July 1, 2022.

12 (13) Fourteen dollars (\$14) an hour beginning July 1, 2023.

13 (14) Fourteen dollars fifty cents (\$14.50) an hour beginning
14 July 1, 2024.

15 (15) Fifteen dollars (\$15) an hour beginning July 1, 2025.

16 (16) Beginning July 1, 2026, and for each succeeding July 1

17 thereafter, the minimum wage shall be increased by an annual

18 cost-of-living adjustment calculated by the secretary using the

19 percentage change in the Consumer Price Index for All Urban

20 Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and

21 Maryland area. In calculating the adjustment, the secretary

22 shall use the most recent twelve-month period for which figures

23 have been officially reported by the United States Department of

24 Labor, Bureau of Labor Statistics. At least sixty days prior to

25 the date the adjustment is due to take effect, the percentage

26 increase and the minimum wage amount, rounded to the nearest

27 multiple of five cents (5¢), shall be determined by the

28 secretary. The secretary shall, within ten days following the

29 determination, forward a notice of the determination to the

30 Legislative Reference Bureau for publication in the next

1 Pennsylvania Bulletin.

2 * * *

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

4 Section 5.2. Gratuities.--(a) A gratuity shall be the sole
5 property of the employe to whom the gratuity was paid, given or
6 left. An employer may not take a gratuity or a part of a
7 gratuity that was paid, given to or left for an employe by a
8 guest, customer or patron or require an employe to credit the
9 gratuity against the wages due to the employe from the employer.

10 (b) An employer that permits a guest, customer or patron to
11 pay a gratuity by credit card shall pay the employe the full
12 amount of the gratuity that the guest, customer or patron
13 indicated on the credit card slip without a deduction for any
14 credit card processing fees or costs that may be charged to the
15 employer by the credit card company. The payment of a gratuity
16 made by a guest, customer or patron using a credit card shall be
17 made to the employe not later than the next regular payday after
18 the date the guest, customer or patron authorized the credit
19 card payment.

20 Section 3. Sections 9, 12 and 13 of the act are amended to
21 read:

22 Section 9. Enforcement; Rules and Regulations.--[The
23 secretary shall enforce this act.] (a) The secretary shall make
24 and, from time to time, revise regulations, with the assistance
25 of the board, when requested by the secretary, which shall be
26 deemed appropriate to carry out the purposes of this act and to
27 safeguard the minimum wage rates thereby established. Such
28 regulations may include, but are not limited to, regulations
29 defining and governing bona fide executive, administrative, or
30 professional employes and outside salespersons, learners and

1 apprentices, their number, proportion, length of learning
2 period, and other working conditions; [handicapped] workers with
3 disabilities; part-time pay; overtime standards; bonuses;
4 allowances for board, lodging, apparel, or other facilities or
5 services customarily furnished by employers to employes;
6 [allowances for gratuities;] or allowances for such other
7 special conditions or circumstances which may be incidental to a
8 particular employer-employee relationship.

9 (b) The secretary shall have the authority to investigate
10 possible violations of this act and to assess administrative
11 penalties under section 12 of this act.

12 Section 12. Penalties.--(a) Any employer and his or her
13 agent, or the officer or agent of any corporation, who
14 discharges or in any other manner discriminates against any
15 employe because such employe has testified or is about to
16 testify before the secretary or his or her representative in any
17 investigation or proceeding under or related to this act, or
18 because such employer believes that said employe may so testify
19 shall, upon conviction thereof in a summary proceeding, be
20 sentenced to pay a fine of not less than [five hundred dollars
21 (\$500)] one thousand five hundred dollars (\$1,500) nor more than
22 [one thousand dollars (\$1,000)] three thousand dollars (\$3,000),
23 and in default of the payment of such fine and costs, shall be
24 sentenced to imprisonment for not less than ten days nor more
25 than ninety days.

26 (b) Any employer or the officer or agent of any corporation
27 who pays or agrees to pay any employe less than the rates
28 applicable to such employe under this act shall, upon conviction
29 thereof in a summary proceeding, be sentenced to pay a fine of
30 not less than [seventy-five dollars (\$75)] two hundred twenty-

1 five dollars (\$225) nor more than [three hundred dollars (\$300)]
2 nine hundred dollars (\$900) or to undergo imprisonment of not
3 less than ten nor more than sixty days, or both. Each week in
4 which such employe is paid less than the rate applicable to him
5 or her under this act and for each employe who is paid less than
6 the prescribed rate, a separate offense shall be deemed to
7 occur. Any agreement between the employer and the employe to
8 work for less than the applicable wage rate shall be no defense
9 to action by the Commonwealth under this section.

10 (c) Any employer or the officer or agent of any corporation
11 who violates any other provision of this act or of any
12 regulation issued thereunder shall, upon conviction thereof in a
13 summary proceeding, be sentenced to pay a fine of not less than
14 [one hundred dollars (\$100)] three hundred dollars (\$300) nor
15 more than [five hundred dollars (\$500)] one thousand five
16 hundred dollars (\$1,500), and each day of such failure to comply
17 with this act or regulation, shall constitute a separate
18 offense.

19 Section 13. Civil Actions.--(a) If any employe is paid by
20 his or her employer less than the minimum wages provided by
21 section 4 of this act or by any regulation issued thereunder,
22 such worker may recover in a civil action the full amount of
23 such minimum wage less any amount actually paid to the worker by
24 the employer, together with costs and such reasonable attorney's
25 fees as may be allowed by the court, and any agreement between
26 the employer and the worker to work for less than such minimum
27 wage shall be no defense to such action. [At the request of any
28 employe paid less than the minimum wage to which such employe
29 was entitled under this act and regulations issued thereunder,
30 the secretary may take an assignment of such wage claim, in

1 trust for the assigning worker and may bring any legal action
2 necessary to collect such claim,]

3 (b) The secretary may bring any legal action necessary to
4 collect the wages of any employe who is paid by his or her
5 employer less than the minimum wages provided by section 4 of
6 this act or by any regulation issued thereunder and the employer
7 shall be required to pay the cost and such reasonable attorney's
8 fees as may be allowed by the court.

9 (c) In an action under this section, the secretary may
10 recover liquidated damages in an amount equal to the wages owed
11 to the employe unless the employer shows that the act or
12 omission resulting in the nonpayment of wages was in good faith
13 and the employer had reasonable grounds for believing that the
14 act or omission was not in violation of this act.

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

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

19 (b) This section does not prohibit local regulation pursuant
20 to an ordinance which was adopted by a municipality prior to
21 January 1, 2006, and which remained in effect on January 1,
22 2006.]

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

24 Section 14.2. Taxpayer Savings and Reinvestment.--(a) When
25 section 4(a)(9), (10), (11), (12), (13), (14) and (15) of this
26 act each take effect, the Secretary of Human Services shall
27 determine the amount that will be saved by raising the wage of
28 individuals that makes the individuals no longer eligible for
29 programs. The Secretary of Human Services shall:

30 (1) publish the amount of savings, along with the

1 appropriation in which an amount is to be saved, on the
2 Department of Human Services' publicly accessible Internet
3 website; and

4 (2) forward a notice of the information under paragraph (1)
5 to the Legislative Reference Bureau for publication in the
6 Pennsylvania Bulletin.

7 (b) Savings under subsection (a) shall be used to provide
8 increases to childcare providers, direct-care workers and for
9 home and community-based services. The Secretary of Human
10 Services shall distribute the savings under subsection (a) in
11 the same manner that the providers are paid. The programs that
12 will receive the savings and the amounts being augmented to each
13 appropriation shall be forwarded to the Legislative Reference
14 Bureau for publication in the Pennsylvania Bulletin.

15 Section 6. This act shall take effect immediately.