
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 78 Session of
2019

INTRODUCED BY TARTAGLIONE, SCHWANK, STREET, HUGHES, COSTA AND
COLLETT, JANUARY 23, 2019

REFERRED TO LABOR AND INDUSTRY, JANUARY 23, 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 rate of
9 minimum wages; and providing for reporting by the Department
10 of Labor and Industry.

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

13 Section 1. Sections 3(d) and 4(a) of the act of January 17,
14 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, are
15 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
22 allowances as may be permitted by regulations of the secretary

1 under section 9.

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

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

1 sentence shall not apply with respect to any tipped employe
2 unless:

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

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

14 * * *

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

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

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

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

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

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

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

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

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

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

5 (9) For a tipped employe who customarily and regularly
6 receives tips, but who actually receives in tips an amount equal
7 to the rate otherwise applicable under this section:

8 (i) three dollars ninety-five cents (\$3.95) an hour in cash
9 wages beginning July 1, 2019; and

10 (ii) seventy percent (70%) of the rate otherwise applicable
11 under this section or the Fair Labor Standards Act of 1938 (52
12 Stat. 1060, 29 U.S.C. § 201 et seq.), whichever is greater, an
13 hour in cash wages beginning January 1, 2020.

14 * * *

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

16 Section 13.1. Reporting by Department.--The department shall
17 collect information on the number of employers who violate the
18 provisions of this act, including the amount of fines imposed
19 for violations, and shall publish the information on the
20 department's publicly accessible Internet website. The
21 department shall update the information every six months.

22 Section 3. Any and all regulations are hereby abrogated to
23 the extent of any inconsistency with this act.

24 Section 4. This act shall take effect immediately.