
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 15 Session of 2021

INTRODUCED BY RABB, BENHAM, GUZMAN, HILL-EVANS, INNAMORATO, KINKEAD, KRAJEWSKI, LEE, OTTEN, WEBSTER, N. NELSON, HOHENSTEIN, GALLOWAY, ZABEL, FIEDLER, GUENST, SANCHEZ, DALEY, D. WILLIAMS, A. DAVIS, SCHLOSSBERG, CIRESI, SCHWEYER, ROZZI, DELLOSO, MALAGARI, WARREN, SIMS, BULLOCK, McCLINTON, MADDEN, HOWARD AND ISAACSON, MARCH 15, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 15, 2021

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

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

20 * * *

21 (d) "Wages" mean compensation due to any employe by reason

1 of his or her employment, payable in legal tender of the United
2 States or checks on banks convertible into cash on demand at
3 full face value, subject to such deductions, charges or
4 allowances as may be permitted by regulations of the secretary
5 under section 9.

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

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

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

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

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

17 * * *

18 (g) "Employer" includes any individual, partnership,
19 association, corporation, business trust, covered business
20 entity or any person or group of persons acting, directly or
21 indirectly, in the interest of an employer in relation to any
22 employe.

23 (g.1) "Covered business entity" means a business or trade
24 that contracts with one or more self-employed individuals for
25 services and is required to report the payment of services to
26 such individuals on IRS Form 1099-MISC or IRS Form 1099-K for
27 more than twenty-five percent of the business's or trade's
28 Pennsylvania workforce. Self-employed individuals under this
29 subsection shall be included in the covered business entity's
30 workforce if the contracts for services include, but are not

1 limited to, oral or written contracts and if services are
2 arranged through application software designed to run on smart
3 phones and other mobile devices and software designed to run
4 inside a web browser. Covered business entities and self-
5 employed individuals who contract for services with covered
6 business entities are considered employers or employes where the
7 context so dictates.

8 (h) "Employee" includes any individual employed by an
9 employer, any employed individual incarcerated in a State or
10 local jail or prison and any individual who contracts for
11 services with a covered business entity.

12 * * *

13 Section 2. Section 4(a) and (d) of the act are amended to
14 read:

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) Twelve dollars (\$12) an hour beginning July 1, 2021.

6 (10) Twelve dollars fifty cents (\$12.50) an hour beginning
7 July 1, 2022.

8 (11) Thirteen dollars (\$13) an hour beginning July 1, 2023.

9 (12) Thirteen dollars fifty cents (\$13.50) an hour beginning
10 July 1, 2024.

11 (13) Fourteen dollars (\$14) an hour beginning July 1, 2025.

12 (14) Fourteen dollars fifty cents (\$14.50) an hour beginning
13 July 1, 2026.

14 (15) Fifteen dollars (\$15) an hour beginning July 1, 2027.

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

1 * * *

2 [(d) An employe whose earning capacity is impaired by
3 physical or mental deficiency or injury may be paid less than
4 the applicable minimum wage if either a license specifying a
5 wage rate commensurate with the employe's productive capacity
6 has been obtained by the employer from the secretary or a
7 Federal certificate is obtained under section 14(c) of the Fair
8 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et
9 seq.). A license obtained from the secretary shall be granted
10 only upon joint application of employer and employe.]

11 * * *

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

13 Section 5.2. Gratuities.--(a) A gratuity shall be the sole
14 property of the employe to whom the gratuity was paid, given or
15 left. An employer may not take a gratuity or a part of a
16 gratuity that was paid, given to or left for an employe by a
17 guest, customer or patron or require an employe to credit the
18 gratuity against the wages due to the employe from the employer.

19 (b) An employer that permits a guest, customer or patron to
20 pay a gratuity by credit card shall pay the employe the full
21 amount of the gratuity that the guest, customer or patron
22 indicated on the credit card slip without a deduction for any
23 credit card processing fees or costs that may be charged to the
24 employer by the credit card company. The payment of a gratuity
25 made by a guest, customer or patron using a credit card shall be
26 made to the employe not later than the next regular payday after
27 the date the guest, customer or patron authorized the credit
28 card payment.

29 Section 4. Sections 9, 12 and 13 of the act are amended to
30 read:

1 Section 9. Enforcement; Rules and Regulations.--[The
2 secretary shall enforce this act.] (a) The secretary shall make
3 and, from time to time, revise regulations, with the assistance
4 of the board, when requested by the secretary, which shall be
5 deemed appropriate to carry out the purposes of this act and to
6 safeguard the minimum wage rates thereby established. Such
7 regulations may include, but are not limited to, regulations
8 defining and governing bona fide executive, administrative, or
9 professional employes and outside salespersons, learners and
10 apprentices, their number, proportion, length of learning
11 period, and other working conditions; [handicapped] workers with
12 disabilities; part-time pay; overtime standards; bonuses;
13 allowances for board, lodging, apparel, or other facilities or
14 services customarily furnished by employers to employes;
15 [allowances for gratuities;] or allowances for such other
16 special conditions or circumstances which may be incidental to a
17 particular employer-employee relationship.

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

21 Section 12. Penalties.--(a) Any employer and his or her
22 agent, or the officer or agent of any corporation, who
23 discharges or in any other manner discriminates against any
24 employe because such employe has testified or is about to
25 testify before the secretary or his or her representative in any
26 investigation or proceeding under or related to this act, or
27 because such employer believes that said employe may so testify
28 shall, upon conviction thereof in a summary proceeding, be
29 sentenced to pay a fine of not less than [five hundred dollars
30 (\$500)] one thousand five hundred dollars (\$1,500) nor more than

1 [one thousand dollars (\$1,000)] three thousand dollars (\$3,000),
2 and in default of the payment of such fine and costs, shall be
3 sentenced to imprisonment for not less than ten days nor more
4 than ninety days.

5 (b) Any employer or the officer or agent of any corporation
6 who pays or agrees to pay any employe less than the rates
7 applicable to such employe under this act shall, upon conviction
8 thereof in a summary proceeding, be sentenced to pay a fine of
9 not less than [seventy-five dollars (\$75)] two hundred twenty-
10 five dollars (\$225) nor more than [three hundred dollars (\$300)]
11 nine hundred dollars (\$900) or to undergo imprisonment of not
12 less than ten nor more than sixty days, or both. Each week in
13 which such employe is paid less than the rate applicable to him
14 or her under this act and for each employe who is paid less than
15 the prescribed rate, a separate offense shall be deemed to
16 occur. Any agreement between the employer and the employe to
17 work for less than the applicable wage rate shall be no defense
18 to action by the Commonwealth under this section.

19 (c) Any employer or the officer or agent of any corporation
20 who violates any other provision of this act or of any
21 regulation issued thereunder shall, upon conviction thereof in a
22 summary proceeding, be sentenced to pay a fine of not less than
23 [one hundred dollars (\$100)] three hundred dollars (\$300) nor
24 more than [five hundred dollars (\$500)] one thousand five
25 hundred dollars (\$1,500), and each day of such failure to comply
26 with this act or regulation, shall constitute a separate
27 offense.

28 Section 13. Civil Actions.--(a) If any employe is paid by
29 his or her employer less than the minimum wages provided by
30 section 4 of this act or by any regulation issued thereunder,

1 such worker may recover in a civil action the full amount of
2 such minimum wage less any amount actually paid to the worker by
3 the employer, together with costs and such reasonable attorney's
4 fees as may be allowed by the court, and any agreement between
5 the employer and the worker to work for less than such minimum
6 wage shall be no defense to such action. [At the request of any
7 employe paid less than the minimum wage to which such employe
8 was entitled under this act and regulations issued thereunder,
9 the secretary may take an assignment of such wage claim, in
10 trust for the assigning worker and may bring any legal action
11 necessary to collect such claim,]

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

18 (c) In an action under this section, the secretary may
19 recover liquidated damages in an amount equal to the wages owed
20 to the employe unless the employer shows that the act or
21 omission resulting in the nonpayment of wages was in good faith
22 and the employer had reasonable grounds for believing that the
23 act or omission was not in violation of this act.

24 Section 5. Section 14.1 of the act is repealed:

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

28 (b) This section does not prohibit local regulation pursuant
29 to an ordinance which was adopted by a municipality prior to
30 January 1, 2006, and which remained in effect on January 1,

1 2006.]

2 Section 6. The act is amended by adding a section to read:

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

9 (1) publish the amount of savings, along with the
10 appropriation in which an amount is to be saved, on the
11 Department of Human Services' publicly accessible Internet
12 website; and

13 (2) forward a notice of the information under paragraph (1)
14 to the Legislative Reference Bureau for publication in the
15 Pennsylvania Bulletin.

16 (b) Savings under subsection (a) shall be used to provide
17 increases to childcare providers, direct-care workers and for
18 home and community-based services. The Secretary of Human
19 Services shall distribute the savings under subsection (a) in
20 the same manner that the providers are paid. The programs that
21 will receive the savings and the amounts being augmented to each
22 appropriation shall be forwarded to the Legislative Reference
23 Bureau for publication in the Pennsylvania Bulletin.

24 Section 7. This act shall take effect immediately.