
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 331 Session of
2021

INTRODUCED BY TARTAGLIONE, FONTANA, KEARNEY, HUGHES, STREET,
BLAKE, BREWSTER, SCHWANK AND KANE, MARCH 4, 2021

REFERRED TO LABOR AND INDUSTRY, MARCH 4, 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.

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

11 Section 1. Section 3(d) of the act of January 17, 1968
12 (P.L.11, No.5), known as The Minimum Wage Act of 1968, is
13 amended to read:

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

15 * * *

16 (d) "Wages" mean compensation due to any employe by reason
17 of his or her employment, payable in legal tender of the United
18 States or checks on banks convertible into cash on demand at
19 full face value, subject to such deductions, charges or
20 allowances as may be permitted by regulations of the secretary
21 under section 9.

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

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

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

3 (2) All tips received by such employe have been retained by
4 the employe and shall not be surrendered to the employer to be
5 used as wages to satisfy the requirement to pay the current
6 hourly minimum rate in effect; where the gratuity is added to
7 the charge made by the establishment, either by the management,
8 or by the customer, the gratuity shall become the property of
9 the employe; except that this subsection shall not be construed
10 to prohibit the pooling of tips among employes who customarily
11 and regularly receive tips. An employer that permits a customer
12 to pay a gratuity by credit card shall pay the employes the full
13 amount of the gratuity that the customer indicated on the credit
14 card slip without deduction for any credit card payment
15 processing fee or cost that may be charged to the employer by
16 the credit card company. Payment of a gratuity made by a
17 customer using a credit card shall be made to the employe not
18 later than the next regular payday following the date the
19 customer authorized the credit card payment.

20 * * *

21 Section 2. This act shall take effect in 60 days.