
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 12 Session of
2023

INTRODUCED BY TARTAGLIONE, KANE, KEARNEY, FONTANA, COLLETT,
DILLON, HUGHES, CAPPELLETTI AND HAYWOOD, JUNE 14, 2023

REFERRED TO LABOR AND INDUSTRY, JUNE 14, 2023

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 local option and for taxpayer savings and
13 reinvestment.

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

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

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

20 * * *

21 (d) "Wages" mean compensation due to any employe by reason
22 of his or her employment, payable in legal tender of the United
23 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 pay
22 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] seventy percent of the wage in effect under
28 section 4; and (ii) an additional amount on account of the tips
29 received by the employe which is equal to the difference between
30 the wage specified in subparagraph (i) and the wage in effect

1 under section 4 of this act. The additional amount on account of
2 tips may not exceed the value of tips actually received by the
3 employe. The previous sentence shall not apply with respect to
4 any tipped employe unless:

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

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

16 * * *

17 Section 2. Section 4(a) of the act is amended by adding a
18 paragraph to read:

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

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

23 * * *

24 (9) Fifteen dollars (\$15) an hour beginning January 1, 2024.
25 Each succeeding January 1 thereafter, the minimum wage shall be
26 increased by an annual cost-of-living adjustment calculated by
27 the secretary using the percentage change in the Consumer Price
28 Index for All Urban Consumers (CPI-U) for the Pennsylvania, New
29 Jersey, Delaware and Maryland area. In calculating the
30 adjustment, the secretary shall use the most recent twelve-month

1 period for which figures have been officially reported by the
2 United States Department of Labor, Bureau of Labor Statistics.
3 At least sixty days prior to the date the adjustment is due to
4 take effect, the percentage increase and the minimum wage
5 amount, rounded to the nearest multiple of five cents (5¢),
6 shall be determined by the secretary. The secretary shall,
7 within ten days following the determination, forward a notice of
8 the determination to the Legislative Reference Bureau for
9 publication in the next available issue of the Pennsylvania
10 Bulletin. If in a year the increase to the minimum wage does not
11 provide a minimum wage greater than or equal to the minimum wage
12 under Federal law, the minimum wage shall be increased to the
13 minimum wage under Federal law.

14 * * *

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

16 Section 5.2. Gratuities.--(a) A gratuity shall be the
17 property of the employe who received the voluntary monetary
18 contribution from a guest, patron or customer for services
19 rendered. An employer shall not take a gratuity or a part of a
20 gratuity received by an employe from a guest, customer or
21 patron.

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

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

3 Section 9. Enforcement; Rules and Regulations.--[The
4 secretary shall enforce this act.] (a) The secretary shall make

5 and, from time to time, revise regulations, with the assistance
6 of the board, when requested by the secretary, which shall be

7 deemed appropriate to carry out the purposes of this act and to
8 safeguard the minimum wage rates thereby established. Such

9 regulations may include, but are not limited to, regulations
10 defining and governing bona fide executive, administrative, or

11 professional employes and outside salespersons, learners and
12 apprentices, their number, proportion, length of learning

13 period, and other working conditions; [handicapped] workers with
14 disabilities; part-time pay; overtime standards; bonuses;

15 allowances for board, lodging, apparel, or other facilities or
16 services customarily furnished by employers to employes;

17 allowances for gratuities; or allowances for such other special
18 conditions or circumstances which may be incidental to a

19 particular employer-employee relationship.

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

23 Section 12. Penalties.--(a) Any employer and his or her
24 agent, or the officer or agent of any corporation, who

25 discharges or in any other manner discriminates against any
26 employe because such employe has testified or is about to

27 testify before the secretary or his or her representative in any
28 investigation or proceeding under or related to this act, or

29 because such employer believes that said employe may so testify
30 shall, upon conviction thereof in a summary proceeding, be

1 sentenced to pay a fine of not less than [five hundred dollars
2 (\$500)] one thousand five hundred dollars (\$1,500) nor more than
3 [one thousand dollars (\$1,000)] three thousand dollars (\$3,000),
4 and in default of the payment of such fine and costs, shall be
5 sentenced to imprisonment for not less than ten days nor more
6 than ninety days.

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

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

30 Section 13. Civil Actions.--(a) If any employe is paid by

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

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

20 (c) In an action brought under this section, whether brought
21 by the employe or by the secretary, where there is a finding of
22 a violation by the employer under this act, the employer shall
23 be liable for any fees and costs associated with enforcement of
24 this act and liquidated damages in an amount equal to the wages
25 or overtime compensation owed to the employe unless the employer
26 shows that the act or omission resulting in the nonpayment of
27 wages was in good faith and the employer had reasonable grounds
28 for believing that the act or omission was not in violation of
29 this act.

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

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

4 (b) This section does not prohibit local regulation pursuant
5 to an ordinance which was adopted by a municipality prior to
6 January 1, 2006, and which remained in effect on January 1,
7 2006.]

8 Section 6. The act is amended by adding sections to read:

9 Section 14.2. Local Option.--(a) Notwithstanding any other
10 provision of law, a municipality may not adopt a local ordinance
11 or regulation providing for a minimum wage greater than the wage
12 provided under section 4 unless:

13 (1) the municipality submits a declaration of its intent to
14 set a greater minimum wage policy to the secretary; and

15 (2) a period of ninety days has lapsed since the submission
16 of intent to the secretary.

17 (b) If a municipality fulfills the conditions of subsection
18 (a), a municipality that adopts an ordinance or regulation
19 providing for a greater minimum wage than the wage provided
20 under section 4 may also adopt provisions for the local
21 enforcement of the ordinance or regulation, including, but not
22 limited to, enforcement by private parties.

23 (c) A municipality may withdraw its declaration of intent to
24 set a greater minimum wage policy by adopting an ordinance to
25 withdraw and submitting notice to the secretary. The notice of
26 intent to withdraw shall include a copy of the ordinance the
27 municipality will adopt to effectuate the withdrawal. The
28 following shall apply:

29 (1) All prior ordinances or regulations or parts of
30 ordinances or regulations or any prior acts taken by the

1 municipality to set a greater minimum wage than provided under
2 section 4 shall be repealed by the adoption of the ordinance to
3 withdraw.

4 (2) After withdrawal, nothing shall prohibit a municipality
5 from subsequently submitting a declaration of intent to set a
6 greater minimum wage policy under subsection (a).

7 (3) After withdrawal, the municipality shall comply with all
8 provisions under this act.

9 (d) Nothing in this act shall be construed to:

10 (1) Authorize a municipality to adopt a wage lower than the
11 minimum wage as required by section 4 and 29 U.S.C. Ch. 8
12 (relating to fair labor standards).

13 (2) Prohibit the secretary from enforcing this act.

14 (e) Definition.--As used in this section, the term
15 "municipality" means a county, city, borough, incorporated town,
16 township, home rule municipality, optional plan municipality or
17 optional charter municipality.

18 Section 14.3. Taxpayer Savings and Reinvestment.--(a) One
19 year after the effective date of section 4(a)(9) and after each
20 subsequent yearly increase to the minimum wage thereafter, the
21 Secretary of Human Services shall determine the amount of money
22 that will be saved from the increase of wages to individuals
23 thereby making the individuals ineligible for programs under the
24 Department of Human Services. The Secretary of Human Services
25 shall:

26 (1) Publish the amount of savings on the publicly accessible
27 Internet website of the Department of Human Services.

28 (2) Transmit a notice of the information under this section
29 to the Legislative Reference Bureau for publication in the next
30 available issue of the Pennsylvania Bulletin.

1 (b) Money saved by the Commonwealth under this section shall
2 be used to provide increases to child-care providers, direct-
3 care workers and for home-based and community-based services.
4 The Secretary of Human Services shall distribute money saved
5 under this section in the same manner that the providers are
6 paid. The programs that will receive the savings and the amounts
7 being augmented to each appropriation shall be forwarded to the
8 Legislative Reference Bureau for publication in the next
9 available issue of the Pennsylvania Bulletin.

10 Section 7. This act shall take effect immediately.