
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 772 Session of
2023

INTRODUCED BY HAYWOOD, FONTANA, KEARNEY, KANE AND COLLETT,
JUNE 6, 2023

REFERRED TO LABOR AND INDUSTRY, JUNE 6, 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, for minimum
9 wages and for preemption.

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

12 Section 1. Sections 3(d) and (i) and 4(a) of the act of
13 January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act
14 of 1968, are amended and the sections are amended by adding
15 subsections 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

1 allowances as may be permitted by regulations of the secretary
2 under section 9.

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

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

1 received by the employe. The previous sentence shall not apply
2 with respect to any tipped employe 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 (i) "Gratuities" or "tips" means a voluntary, monetary
16 [contributions] contribution received by an employe from a
17 guest, patron or customer for services rendered.

18 (j) "Tipped employe" means an employe who customarily and
19 regularly receives a gratuity during the course of the employe's
20 employment.

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

23 (a) Every employer shall pay to each of his or her employes,
24 including tipped employes, wages for all hours worked at a rate
25 of not less than:

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

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

30 (3) Three dollars ten cents (\$3.10) an hour during the year

1 beginning January 1, 1980.

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

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

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

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

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

12 (9) Fifteen dollars (\$15) an hour beginning January 1, 2024.

13 * * *

14 (a.2) A municipality may enact an ordinance which requires
15 an employer to pay each of his or her employes wages for all
16 hours worked at a rate higher than the rate imposed under
17 subsection (a). A copy of an ordinance adopted by a municipality
18 under this subsection shall be submitted to the department.

19 (a.3) Beginning January 1, 2025, and each year thereafter,
20 the minimum wage shall be increased by an annual cost-of-living
21 adjustment calculated by the secretary using the percentage
22 change in the Consumer Price Index for all Urban Consumers for
23 the Pennsylvania, New Jersey, Delaware and Maryland area. In
24 calculating the adjustment, the secretary shall use the most
25 recent twelve-month period for which figures have been
26 officially reported by the United States Department of Labor,
27 Bureau of Labor Statistics. At least sixty days prior to the
28 date the adjustment is due to take effect, the percentage
29 increase and the minimum wage amount, rounded to the nearest
30 multiple of five cents (5¢), shall be determined by the

1 secretary. The secretary shall, within ten days following the
2 determination, forward a notice to the Legislative Reference
3 Bureau for publication in the next available issue of the
4 Pennsylvania Bulletin.

5 (a.4) The following shall apply to tipped employes:

6 (1) Each tipped employe shall be informed in writing by the
7 employer, no later than twenty days after the effective date of
8 this subsection, that the tipped employe shall be paid not less
9 than the appropriate minimum wage under subsection (a).

10 (2) Each gratuity received by the employe shall be retained
11 by the employe and shall not be surrendered or paid to the
12 employer. This paragraph shall not be deemed to prohibit the
13 pooling of gratuities among tipped employes.

14 (3) If a gratuity is added, either by the employer or the
15 manager of the establishment or by the guest, patron or
16 customer, to the charge to the guest, patron or customer, the
17 gratuity shall become the property of the tipped employe and
18 shall not be used by the employer to satisfy the requirement to
19 pay the wage then in effect.

20 * * *

21 Section 2. Section 14.1 of the act is amended to read:

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

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

30 Section 3. The addition of section 4(a.2) of the act shall

1 apply to contracts entered into or renewed on or after the
2 effective date of this section.

3 Section 4. This act shall take effect as follows:

4 (1) The amendment of the definition of "wage" under
5 section 3(d) of the act shall take effect in six months.

6 (2) The remainder of this act shall take effect
7 immediately.