

SECOND REGULAR SESSION

SENATE BILL NO. 680

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUMMEL.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4031S.011

AN ACT

To repeal sections 290.500, 290.502, 290.507, and 290.527, RSMo, and to enact in lieu thereof four new sections relating to the minimum wage, with a delayed effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 290.500, 290.502, 290.507, and 290.527, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 290.500, 290.502, 290.507, and 290.527, to read as follows:

290.500. As used in sections 290.500 to 290.530, the following words and
2 phrases mean:

3 (1) "Agriculture", farming and all its branches including, but not limited
4 to, the cultivation and tillage of the soil, dairying, the production, cultivation,
5 growing and harvesting of any agricultural commodities, the raising of livestock,
6 fish and other marine life, bees, fur-bearing animals or poultry and any practices
7 performed by a farmer or on a farm as an incident to or in conjunction with
8 farming operations, including preparation for market, delivery to storage or to
9 market or to carriers for transportation to market;

10 (2) "Director", the director of the department of labor and industrial
11 relations or his authorized representative;

12 (3) "Employee", any individual employed by an employer, except that the
13 term "employee" shall not include:

14 (a) Any individual employed in a bona fide executive, administrative, or
15 professional capacity;

16 (b) Any individual engaged in the activities of an educational, charitable,
17 religious, or nonprofit organization where the employer-employee relationship

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 does not, in fact, exist or where the services rendered to the organization are on
19 a voluntary basis;

20 (c) Any individual standing in loco parentis to foster children in their
21 care;

22 (d) Any individual employed for less than four months in any year in a
23 resident or day camp for children or youth, or any individual employed by an
24 educational conference center operated by an educational, charitable or
25 not-for-profit organization;

26 (e) Any individual engaged in the activities of an educational organization
27 where employment by the organization is in lieu of the requirement that the
28 individual pay the cost of tuition, housing or other educational fees of the
29 organization or where earnings of the individual employed by the organization are
30 credited toward the payment of the cost of tuition, housing or other educational
31 fees of the organization;

32 (f) Any individual employed on or about a private residence on an
33 occasional basis for six hours or less on each occasion;

34 (g) Any handicapped person employed in a sheltered workshop, certified
35 by the department of elementary and secondary education;

36 (h) Any person employed on a casual basis to provide baby-sitting
37 services;

38 (i) Any individual employed by an employer subject to the provisions of
39 part A of subtitle IV of title 49, United States Code, 49 U.S.C. Sections 10101 et
40 seq.;

41 (j) Any individual employed on a casual or intermittent basis as a golf
42 caddy, newsboy, or in a similar occupation;

43 (k) Any individual whose earnings are derived in whole or in part from
44 sales commissions and whose hours and places of employment are not
45 substantially controlled by the employer;

46 (l) Any individual who is employed in any government position defined in
47 29 U.S.C. Sections 203(e)(2)(C)(i)-(ii);

48 (m) Any individual employed by a retail or service business whose annual
49 gross volume sales made or business done is less than five hundred thousand
50 dollars, **provided that such threshold shall increase or decrease annually**
51 **by the mean percentage share of the gross state product held by the**
52 **arts, entertainment, and recreation industry and the accommodation**
53 **and food services industry, as such information is published through**

54 **the department of economic development. Any increase or decrease in**
55 **the threshold shall be measured by the director and rounded to the**
56 **nearest dollar;**

57 (n) Any individual who is an offender, as defined in section 217.010, who
58 is incarcerated in any correctional facility operated by the department of
59 corrections, including offenders who provide labor or services on the grounds of
60 such correctional facility pursuant to section 217.550;

61 (o) Any individual described by the provisions of section 29 U.S.C. 213(a)
62 (8);

63 (4) "Employer", any person acting directly or indirectly in the interest of
64 an employer in relation to an employee, **provided that any person employing**
65 **less than fifteen employees during each calendar week within the**
66 **current calendar year and the previous calendar year shall not be**
67 **considered an employer;**

68 (5) "Learner and apprentice", any individual under 20 years of age who
69 has not completed the required training for a particular job. In no event shall the
70 individual be deemed a learner or apprentice in the occupation after three months
71 of training except where the director finds, after investigation, that for the
72 particular occupation a minimum of proficiency cannot be acquired in three
73 months. In no case shall a person be declared to be a learner or apprentice after
74 six months of training for a particular employer or job. Employees of an
75 amusement or recreation business that meets the criteria set out in 29 U.S.C.
76 Section 213(a) (3) may be deemed a learner or apprentice for ninety working days.
77 No individual shall be deemed a learner or apprentice solely for the purpose of
78 evading the provisions of sections 290.500 to 290.530;

79 (6) "Occupation", any occupation, service, trade, business, industry, or
80 branch or group of industries or employment or class of employment in which
81 individuals are gainfully employed;

82 (7) "Wage", compensation due to an employee by reason of his
83 employment, payable in legal tender of the United States or checks on banks
84 convertible into cash on demand at full face value;

85 (8) "Person", any individual, partnership, association, corporation,
86 business, business trust, legal representative, or any organized group of persons;

87 (9) ["Man-day"] **"Work-day"**, any day during which an employee performs
88 any agricultural labor for not less than one hour.

290.502. 1. Except as may be otherwise provided pursuant to sections

2 290.500 to 290.530, [effective January 1, 2007,] every employer shall pay to each
3 employee wages at the **applicable** rate [of \$6.50 per hour] **described under**
4 **subsection 2 of this section**, or wages at the same rate or rates set under the
5 provisions of federal law as the prevailing federal minimum wage applicable to
6 those covered jobs in interstate commerce, whichever rate per hour is higher.

7 2. **(1) Effective January 1, 2019, every employer shall pay to each**
8 **employee wages at the rate of \$9.00 per hour.**

9 **(2) Effective January 1, 2020, every employer shall pay to each**
10 **employee wages at the rate of \$10.00 per hour.**

11 **(3) Effective January 1, 2021, every employer shall pay to each**
12 **employee wages at the rate of \$11.00 per hour.**

13 **(4) Effective January 1, 2022, every employer shall pay to each**
14 **employee wages at the rate of \$12.00 per hour.**

15 3. The minimum wage shall be increased or decreased on January 1,
16 [2008] **2023**, and on January 1 of successive years, by the increase or decrease
17 in the cost of living. On September 30, [2007] **2022**, and on each September 30
18 of each successive year, the director shall measure the increase or decrease in the
19 cost of living by the percentage increase or decrease as of the preceding July over
20 the level as of July of the immediately preceding year of the Consumer Price
21 Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor index
22 as published by the U.S. Department of Labor or its successor agency, with the
23 amount of the minimum wage increase or decrease rounded to the nearest five
24 cents.

290.507. Sections 290.500 to 290.530 shall not apply to any employee or
2 employer engaged in agriculture, as defined in section 290.500 (A) if such
3 employee is employed by an employer who did not, during any calendar quarter
4 during the preceding calendar year, use more than five hundred [man-days]
5 **work-days** of agriculture labor, (B) if such employee is the parent, spouse, child,
6 or other member of his employer's immediate family, (C) if such employee (i) is
7 employed as a hand harvest laborer and is paid on a piece rate basis in an
8 operation which has been, and is customarily and generally recognized as having
9 been, paid on a piece rate basis in the region of employment, (ii) commutes daily
10 from his permanent residence to the farm on which he is so employed, and (iii)
11 has been employed in agriculture less than thirteen weeks during the preceding
12 calendar year, (D) if such employee (other than an employee described in clause
13 (C) of this subsection) (i) is sixteen years of age or under and is employed as a

14 hand harvest laborer, is paid on a piece rate basis in an operation which has
15 been, and is customarily and generally recognized as having been, paid on a piece
16 rate basis in the region of employment, (ii) is employed on the same farm as his
17 parent or person standing in the place of his parent, and (iii) is paid at the same
18 piece rate as employees over age sixteen are paid on the same farm, or (E) if such
19 employee is principally engaged in the range production of livestock.

290.527. Any employer who pays any employee less wages than the wages
2 to which the employee is entitled under or by virtue of sections 290.500 to
3 290.530 shall be liable to the employee affected for the full amount of the wage
4 rate and an additional [equal] amount **equal to twice the unpaid wages** as
5 liquidated damages, less any amount actually paid to the employee by the
6 employer and for costs and such reasonable attorney fees as may be allowed by
7 the court or jury. The employee may bring any legal action necessary to collect
8 the claim. Any agreement between the employee and the employer to work for
9 less than the wage rate shall be no defense to the action. All actions for the
10 collection of any deficiency in wages shall be commenced within [two] **three** years
11 of the accrual of the cause of action.

Section B. The repeal and reenactment of sections 290.500, 290.502,
2 290.507, and 290.527 of this act shall become effective January 1, 2019.

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