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HOUSE BILL 323

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO LABOR; RAISING THE MINIMUM WAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer shall pay an employee no less than the minimum wage rate of [~~six dollars fifty cents (\$6.50) an hour. As of January 1, 2009, an employer shall pay the minimum wage rate of seven dollars fifty cents (\$7.50) an hour] ten dollars ten cents (\$10.10) per hour; however, if the consumer price index for the western region for urban wage earners and clerical workers, as published by the United States department of labor, increases from its measure on the prior July 1, then beginning on the next January 1, an employer shall pay an~~

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1 employee no less than the previous year's minimum wage rate  
2 adjusted upward by an amount in proportion to that increase.

3 B. Each July, the workforce solutions department  
4 shall:

5 (1) determine whether there has been an  
6 increase in the consumer price index identified in Subsection A  
7 of this section; and

8 (2) if there has been an increase:

9 (a) calculate the new minimum wages in  
10 accordance with Subsections A and D of this section; and

11 (b) notify every employer subject to the  
12 Minimum Wage Act of the minimum wage rates that will become  
13 effective on the next January 1.

14 ~~[B-]~~ C. An employer furnishing food, utilities,  
15 supplies or housing to an employee who is engaged in  
16 agriculture may deduct the reasonable value of such furnished  
17 items from any wages due to the employee.

18 ~~[G-]~~ D. An employee who customarily and regularly  
19 receives more than thirty dollars (\$30.00) a month in tips  
20 shall be paid [a] no less than the minimum hourly wage of [two  
21 dollars thirteen cents (\$2.13)] three dollars (\$3.00); however,  
22 if there is an increase as described in Subsection A of this  
23 section, then the employer shall pay that employee no less than  
24 the previous year's minimum wage rate adjusted upward by an  
25 amount in proportion to that increase. The employer may

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1 consider tips as part of wages, but the tips combined with the  
2 employer's cash wage shall not equal less than the minimum wage  
3 rate as provided in Subsection A of this section. All tips  
4 received by such employees shall be retained by the employee,  
5 except that nothing in this section shall prohibit the pooling  
6 of tips among employees.

7 ~~[D-]~~ E. An employee shall not be required to work  
8 more than forty hours in any week of seven days, unless the  
9 employee is paid one and one-half times the employee's regular  
10 hourly rate of pay for all hours worked in excess of forty  
11 hours. For an employee who is paid a fixed salary for  
12 fluctuating hours and who is employed by an employer a majority  
13 of whose business in New Mexico consists of providing  
14 investigative services to the federal government, the hourly  
15 rate may be calculated in accordance with the provisions of the  
16 federal Fair Labor Standards Act of 1938 and the regulations  
17 pursuant to that act; provided that in no case shall the hourly  
18 rate be less than the federal minimum wage."