

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 277

Senators Thomas, Schiavoni

Cosponsors: Senators Skindell, Tavares, Williams, Brown

A BILL

To amend sections 4111.02, 4111.09, and 4111.14 and 1
to repeal section 4111.07 of the Revised Code to 2
increase the state minimum wage. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4111.02, 4111.09, and 4111.14 of 4
the Revised Code be amended to read as follows: 5

Sec. 4111.02. ~~Every (A) (1) Except as provided in division~~ 6
~~(A) (2) of this section, every employer, as defined in Section~~ 7
34a of Article II, Ohio Constitution, shall pay each of the 8
employer's employees at a wage rate of not less than ~~the wage~~ 9
~~rate specified in Section 34a of Article II, Ohio Constitution~~ 10
the following wage rates: 11

(a) During the period beginning January 1, 2019, and 12
ending December 31, 2019, twelve dollars per hour; 13

(b) During the period beginning January 1, 2020, and 14
ending December 31, 2020, twelve dollars and fifty cents per 15
hour; 16

(c) During the period beginning January 1, 2021, and 17

ending December 31, 2021, thirteen dollars per hour; 18

(d) During the period beginning January 1, 2022, and 19
ending December 31, 2022, thirteen dollars and fifty cents per 20
hour; 21

(e) During the period beginning January 1, 2023, and 22
ending December 31, 2023, fourteen dollars per hour; 23

(f) During the period beginning January 1, 2024, and 24
ending December 31, 2024, fourteen dollars and fifty cents per 25
hour; 26

(g) Beginning January 1, 2025, fifteen dollars per hour. 27

(2) If an employer is able to demonstrate that an employee 28
receives tips that combined with the wages paid by the employer 29
are equal to or greater than the minimum wage rate for all hours 30
worked, the employer may pay the employee at a rate of less 31
than, but not less than half, the minimum wage rate required by 32
division (A) (1) of this section. 33

~~The~~ (B) On September 30, 2025, and every thirtieth day of 34
September thereafter, the director of commerce annually shall 35
adjust the wage rate as specified in division (A) (1) (g) of this 36
section in accordance with Section 34a of Article II, Ohio 37
Constitution. The adjusted wage rate takes effect on the first 38
day of January immediately following the date of the adjustment. 39

(C) No political subdivision shall establish a minimum 40
wage rate different from the wage rate required under this 41
section. 42

(D) As used in this section, "employee" has the same 43
meaning as in section 4111.14 of the Revised Code. 44

Sec. 4111.09. Every employer subject to sections 4111.01 45

to 4111.17 of the Revised Code, or to any rules issued 46
thereunder, shall keep a summary of the sections, approved by 47
the director of commerce, and copies of any applicable rules 48
issued thereunder, or a summary of the rules, posted in a 49
conspicuous and accessible place in or about the premises 50
wherein any person subject thereto is employed. The director of 51
commerce shall make the summary described in this section 52
available on the web site of the department of commerce. The 53
director shall update this summary as necessary, but not less 54
than annually, in order to reflect changes in the minimum wage 55
rate as required under Section 34a of Article II, Ohio 56
Constitution and section 4111.02 of the Revised Code. Employees 57
and employers shall be furnished copies of the summaries and 58
rules by the state, on request, without charge. 59

Sec. 4111.14. (A) Pursuant to the general assembly's 60
authority to establish a minimum wage under Section 34 of 61
Article II, Ohio Constitution, this section is in implementation 62
of Section 34a of Article II, Ohio Constitution. In implementing 63
Section 34a of Article II, Ohio Constitution, the general 64
assembly hereby finds that the purpose of Section 34a of Article 65
II, Ohio Constitution, is to: 66

(1) Ensure that Ohio employees, as defined in division (B) 67
(1) of this section, are paid the wage rate required by section 68
4111.02 of the Revised Code in accordance with Section 34a of 69
Article II, Ohio Constitution; 70

(2) Ensure that covered Ohio employers maintain certain 71
records that are directly related to the enforcement of the wage 72
rate requirements ~~in~~ of Section 34a of Article II, Ohio 73
Constitution and section 4111.02 of the Revised Code; 74

(3) Ensure that Ohio employees who are paid the wage rate 75

required by ~~Section 34a of Article II, Ohio Constitution, section~~ 76
4111.02 of the Revised Code, may enforce their right to receive 77
that wage rate in the manner set forth in Section 34a of Article 78
II, Ohio Constitution; and 79

(4) Protect the privacy of Ohio employees' pay and 80
personal information specified in Section 34a of Article II, 81
Ohio Constitution, by restricting an employee's access, and 82
access by a person acting on behalf of that employee, to the 83
employee's own pay and personal information. 84

(B) In accordance with Section 34a of Article II, Ohio 85
Constitution, the terms "employer," "employee," "employ," 86
"person," and "independent contractor" have the same meanings as 87
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 88
U.S.C. 203, as amended. In construing the meaning of these 89
terms, due consideration and great weight shall be given to the 90
United States department of labor's and federal courts' 91
interpretations of those terms under the Fair Labor Standards 92
Act and its regulations. As used in division (B) of this 93
section: 94

(1) "Employee" means individuals employed in Ohio, but 95
does not mean individuals who are excluded from the definition 96
of "employee" under 29 U.S.C. 203(e) or individuals who are 97
exempted from the minimum wage requirements in 29 U.S.C. 213 and 98
from the definition of "employee" in this chapter. 99

(2) "Employ" and "employee" do not include any person 100
acting as a volunteer. In construing who is a volunteer, 101
"volunteer" shall have the same meaning as in sections 553.101 102
to 553.106 of Title 29 of the Code of Federal Regulations, as 103
amended, and due consideration and great weight shall be given 104
to the United States department of labor's and federal courts' 105

interpretations of the term "volunteer" under the Fair Labor Standards Act and its regulations. 106
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(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, or section 4111.02 of the Revised Code to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment. In issuing such licenses, the state shall abide by the rules adopted pursuant to section 4111.06 of the Revised Code. 108
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(D) (1) In accordance with Section 34a of Article II, Ohio Constitution, individuals employed in or about the property of an employer or an individual's residence on a casual basis are not included within the coverage of Section 34a of Article II, Ohio Constitution. As used in division (D) of this section: 117
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(a) "Casual basis" means employment that is irregular or intermittent and that is not performed by an individual whose vocation is to be employed in or about the property of the employer or individual's residence. In construing who is employed on a "casual basis," due consideration and great weight shall be given to the United States department of labor's and federal courts' interpretations of the term "casual basis" under the Fair Labor Standards Act and its regulations. 122
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(b) "An individual employed in or about the property of an employer or individual's residence" means an individual employed on a casual basis or an individual employed in or about a residence on a casual basis, respectively. 130
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(2) In accordance with Section 34a of Article II, Ohio 134

Constitution, employees of a solely family-owned and operated 135
business who are family members of an owner are not included 136
within the coverage of Section 34a of Article II, Ohio 137
Constitution. As used in division (D) (2) of this section, 138
"family member" means a parent, spouse, child, stepchild, 139
sibling, grandparent, grandchild, or other member of an owner's 140
immediate family. 141

(E) In accordance with Section 34a of Article II, Ohio 142
Constitution, an employer shall at the time of hire provide an 143
employee with the employer's name, address, telephone number, 144
and other contact information and update such information when 145
it changes. As used in division (E) of this section: 146

(1) "Other contact information" may include, where 147
applicable, the address of the employer's internet site on the 148
world wide web, the employer's electronic mail address, fax 149
number, or the name, address, and telephone number of the 150
employer's statutory agent. "Other contact information" does not 151
include the name, address, telephone number, fax number, 152
internet site address, or electronic mail address of any 153
employee, shareholder, officer, director, supervisor, manager, 154
or other individual employed by or associated with an employer. 155

(2) "When it changes" means that the employer shall 156
provide its employees with the change in its name, address, 157
telephone number, or other contact information within sixty 158
business days after the change occurs. The employer shall 159
provide the changed information by using any of its usual 160
methods of communicating with its employees, including, but not 161
limited to, listing the change on the employer's internet site 162
on the world wide web, internal computer network, or a bulletin 163
board where it commonly posts employee communications or by 164

insertion or inclusion with employees' paychecks or pay stubs. 165

(F) In accordance with Section 34a of Article II, Ohio 166
Constitution, an employer shall maintain a record of the name, 167
address, occupation, pay rate, hours worked for each day worked, 168
and each amount paid an employee for a period of not less than 169
three years following the last date the employee was employed by 170
that employer. As used in division (F) of this section: 171

(1) "Address" means an employee's home address as 172
maintained in the employer's personnel file or personnel 173
database for that employee. 174

(2) (a) With respect to employees who are not exempt from 175
the overtime pay requirements of the Fair Labor Standards Act or 176
this chapter, "pay rate" means an employee's base rate of pay. 177

(b) With respect to employees who are exempt from the 178
overtime pay requirements of the Fair Labor Standards Act or 179
this chapter, "pay rate" means an employee's annual base salary 180
or other rate of pay by which the particular employee qualifies 181
for that exemption under the Fair Labor Standards Act or this 182
chapter, but does not include bonuses, stock options, 183
incentives, deferred compensation, or any other similar form of 184
compensation. 185

(3) "Record" means the name, address, occupation, pay 186
rate, hours worked for each day worked, and each amount paid an 187
employee in one or more documents, databases, or other paper or 188
electronic forms of record-keeping maintained by an employer. No 189
one particular method or form of maintaining such a record or 190
records is required under this division. An employer is not 191
required to create or maintain a single record containing only 192
the employee's name, address, occupation, pay rate, hours worked 193

for each day worked, and each amount paid an employee. An 194
employer shall maintain a record or records from which the 195
employee or person acting on behalf of that employee could 196
reasonably review the information requested by the employee or 197
person. 198

An employer is not required to maintain the records 199
specified in division (F) (3) of this section for any period 200
before January 1, 2007. On and after January 1, 2007, the 201
employer shall maintain the records required by division (F) (3) 202
of this section for three years from the date the hours were 203
worked by the employee and for three years after the date the 204
employee's employment ends. 205

(4) (a) Except for individuals specified in division (F) (4) 206
(b) of this section, "hours worked for each day worked" means 207
the total amount of time worked by an employee in whatever 208
increments the employer uses for its payroll purposes during a 209
day worked by the employee. An employer is not required to keep 210
a record of the time of day an employee begins and ends work on 211
any given day. As used in division (F) (4) of this section, "day" 212
means a fixed period of twenty-four consecutive hours during 213
which an employee performs work for an employer. 214

(b) An employer is not required to keep records of "hours 215
worked for each day worked" for individuals for whom the 216
employer is not required to keep those records under the Fair 217
Labor Standards Act and its regulations or individuals who are 218
not subject to the overtime pay requirements specified in 219
section 4111.03 of the Revised Code. 220

(5) "Each amount paid an employee" means the total gross 221
wages paid to an employee for each pay period. As used in 222
division (F) (5) of this section, "pay period" means the period 223

of time designated by an employer to pay an employee the 224
employee's gross wages in accordance with the employer's payroll 225
practices under section 4113.15 of the Revised Code. 226

(G) In accordance with Section 34a of Article II, Ohio 227
Constitution, an employer must provide such information without 228
charge to an employee or person acting on behalf of an employee 229
upon request. As used in division (G) of this section: 230

(1) "Such information" means the name, address, 231
occupation, pay rate, hours worked for each day worked, and each 232
amount paid for the specific employee who has requested that 233
specific employee's own information and does not include the 234
name, address, occupation, pay rate, hours worked for each day 235
worked, or each amount paid of any other employee of the 236
employer. "Such information" does not include hours worked for 237
each day worked by individuals for whom an employer is not 238
required to keep that information under the Fair Labor Standards 239
Act and its regulations or individuals who are not subject to 240
the overtime pay requirements specified in section 4111.03 of 241
the Revised Code. 242

(2) "Acting on behalf of an employee" means a person 243
acting on behalf of an employee as any of the following: 244

(a) The certified or legally recognized collective 245
bargaining representative for that employee under the applicable 246
federal law or Chapter 4117. of the Revised Code; 247

(b) The employee's attorney; 248

(c) The employee's parent, guardian, or legal custodian. 249

A person "acting on behalf of an employee" must be 250
specifically authorized by an employee in order to make a 251
request for that employee's own name, address, occupation, pay 252

rate, hours worked for each day worked, and each amount paid to 253
that employee. 254

(3) "Provide" means that an employer shall provide the 255
requested information within thirty business days after the date 256
the employer receives the request, unless either of the 257
following occurs: 258

(a) The employer and the employee or person acting on 259
behalf of the employee agree to some alternative time period for 260
providing the information. 261

(b) The thirty-day period would cause a hardship on the 262
employer under the circumstances, in which case the employer 263
must provide the requested information as soon as practicable. 264

(4) A "request" made by an employee or a person acting on 265
behalf of an employee means a request by an employee or a person 266
acting on behalf of an employee for the employee's own 267
information. The employer may require that the employee provide 268
the employer with a written request that has been signed by the 269
employee and notarized and that reasonably specifies the 270
particular information being requested. The employer may require 271
that the person acting on behalf of an employee provide the 272
employer with a written request that has been signed by the 273
employee whose information is being requested and notarized and 274
that reasonably specifies the particular information being 275
requested. 276

(H) In accordance with Section 34a of Article II, Ohio 277
Constitution, an employee, person acting on behalf of one or 278
more employees, and any other interested party may file a 279
complaint with the state for a violation of any provision of 280
Section 34a of Article II, Ohio Constitution, or any law or 281

regulation implementing its provisions. Such complaint shall be 282
promptly investigated and resolved by the state. The employee's 283
name shall be kept confidential unless disclosure is necessary 284
to resolution of a complaint and the employee consents to 285
disclosure. As used in division (H) of this section: 286

(1) "Complaint" means a complaint of an alleged violation 287
pertaining to harm suffered by the employee filing the 288
complaint, by a person acting on behalf of one or more 289
employees, or by an interested party. 290

(2) "Acting on behalf of one or more employees" has the 291
same meaning as "acting on behalf of an employee" in division 292
(G) (2) of this section. Each employee must provide a separate 293
written and notarized authorization before the person acting on 294
that employee's or those employees' behalf may request the name, 295
address, occupation, pay rate, hours worked for each day worked, 296
and each amount paid for the particular employee. 297

(3) "Interested party" means a party who alleges to be 298
injured by the alleged violation and who has standing to file a 299
complaint under common law principles of standing. 300

(4) "Resolved by the state" means that the complaint has 301
been resolved to the satisfaction of the state. 302

(5) "Shall be kept confidential" means that the state 303
shall keep the name of the employee confidential as required by 304
division (H) of this section. 305

(I) In accordance with Section 34a of Article II, Ohio 306
Constitution, the state may on its own initiative investigate an 307
employer's compliance with Section 34a of Article II, Ohio 308
Constitution, and any law or regulation implementing Section 34a 309
of Article II, Ohio Constitution. The employer shall make 310

available to the state any records related to such investigation 311
and other information required for enforcement of Section 34a of 312
Article II, Ohio Constitution or any law or regulation 313
implementing Section 34a of Article II, Ohio Constitution. The 314
state shall investigate an employer's compliance with this 315
section in accordance with the procedures described in section 316
4111.04 of the Revised Code. All records and information related 317
to investigations by the state are confidential and are not a 318
public record subject to section 149.43 of the Revised Code. 319
This division does not prevent the state from releasing to or 320
exchanging with other state and federal wage and hour regulatory 321
authorities information related to investigations. 322

(J) In accordance with Section 34a of Article II, Ohio 323
Constitution, damages shall be calculated as an additional two 324
times the amount of the back wages and in the case of a 325
violation of an anti-retaliation provision an amount set by the 326
state or court sufficient to compensate the employee and deter 327
future violations, but not less than one hundred fifty dollars 328
for each day that the violation continued. The "not less than 329
one hundred fifty dollar" penalty specified in division (J) of 330
this section shall be imposed only for violations of the anti- 331
retaliation provision in Section 34a of Article II, Ohio 332
Constitution. 333

(K) In accordance with Section 34a of Article II, Ohio 334
Constitution, an action for equitable and monetary relief may be 335
brought against an employer by the attorney general and/or an 336
employee or person acting on behalf of an employee or all 337
similarly situated employees in any court of competent 338
jurisdiction, including the court of common pleas of an 339
employee's county of residence, for any violation of Section 34a 340
of Article II, Ohio Constitution, or any law or regulation 341

implementing its provisions within three years of the violation 342
or of when the violation ceased if it was of a continuing 343
nature, or within one year after notification to the employee of 344
final disposition by the state of a complaint for the same 345
violation, whichever is later. 346

(1) As used in division (K) of this section, 347
"notification" means the date on which the notice was sent to 348
the employee by the state. 349

(2) No employee shall join as a party plaintiff in any 350
civil action that is brought under division (K) of this section 351
by an employee, person acting on behalf of an employee, or 352
person acting on behalf of all similarly situated employees 353
unless that employee first gives written consent to become such 354
a party plaintiff and that consent is filed with the court in 355
which the action is brought. 356

(3) A civil action regarding an alleged violation of this 357
section shall be maintained only under division (K) of this 358
section. This division does not preclude the joinder in a single 359
civil action of an action under this division and an action 360
under section 4111.10 of the Revised Code. 361

(4) Any agreement between an employee and employer to work 362
for less than the wage rate specified in ~~Section 34a of Article~~ 363
~~II, Ohio Constitution~~ section 4111.02 of the Revised Code, is no 364
defense to an action under this section. 365

(L) In accordance with Section 34a of Article II, Ohio 366
Constitution, there shall be no exhaustion requirement, no 367
procedural, pleading, or burden of proof requirements beyond 368
those that apply generally to civil suits in order to maintain 369
such action and no liability for costs or attorney's fees on an 370

employee except upon a finding that such action was frivolous in 371
accordance with the same standards that apply generally in civil 372
suits. Nothing in division (L) of this section affects the right 373
of an employer and employee to agree to submit a dispute under 374
this section to alternative dispute resolution, including, but 375
not limited to, arbitration, in lieu of maintaining the civil 376
suit specified in division (K) of this section. Nothing in this 377
division limits the state's ability to investigate or enforce 378
this section. 379

(M) An employer who provides such information specified in 380
Section 34a of Article II, Ohio Constitution, shall be immune 381
from any civil liability for injury, death, or loss to person or 382
property that otherwise might be incurred or imposed as a result 383
of providing that information to an employee or person acting on 384
behalf of an employee in response to a request by the employee 385
or person, and the employer shall not be subject to the 386
provisions of Chapters 1347. and 1349. of the Revised Code to 387
the extent that such provisions would otherwise apply. As used 388
in division (M) of this section, "such information," "acting on 389
behalf of an employee," and "request" have the same meanings as 390
in division (G) of this section. 391

(N) As used in this section, "the state" means the 392
director of commerce. 393

Section 2. That existing sections 4111.02, 4111.09, and 394
4111.14 and section 4111.07 of the Revised Code are hereby 395
repealed. 396