

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1896 Session of 2013

INTRODUCED BY KIM, COHEN, DERMODY, HANNA, FRANKEL, STURLA, MARKOSEK, GOODMAN, WATERS, SCHLOSSBERG, MCCARTER, D. EVANS, CLAY, BRIGGS, FABRIZIO, DEAN, GAINNEY, READSHAW, HAGGERTY, SCHREIBER, SIMS, CARROLL, PASHINSKI, KULA, WHITE, MCGEEHAN, BROWNLEE, DeLUCA, MOLCHANY, KORTZ, NEILSON, P. COSTA, PARKER, MCNEILL, M. DALEY, P. DALEY, GIBBONS, D. COSTA, DEASY, GERGELY, MUNDY, SABATINA, SAMUELSON, YOUNGBLOOD, CRUZ, W. KELLER, ROZZI, DONATUCCI, CALTAGIRONE, D. MILLER, RAVENSTAHL, O'BRIEN, KINSEY, SANTARSIERO, ROEBUCK, K. BOYLE, J. HARRIS, BISHOP, FLYNN, HARKINS, FREEMAN, BRADFORD, FARINA, DAVIS, GALLOWAY, PAINTER, B. BOYLE, KIRKLAND, BIZZARRO, THOMAS, CONKLIN, DAVIDSON AND KAVULICH, DECEMBER 9, 2013

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, DECEMBER 9, 2013

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 the rate of the minimum
 9 wage.

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

12 Section 1. Section 3 of the act of January 17, 1968 (P.L.11,
 13 No.5), known as The Minimum Wage Act of 1968, amended July 9,
 14 2006 (P.L.1077, No.112), is amended to read:

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

16 (a) "Secretary" means the Secretary of Labor and Industry.

1 (b) "Department" means the Department of Labor and Industry.

2 (c) "Board" means the Minimum Wage Advisory Board created by
3 this act.

4 (d) "Wages" mean compensation due to any employe by reason
5 of his or her employment, payable in legal tender of the United
6 States or checks on banks convertible into cash on demand at
7 full face value, subject to such deductions, charges or
8 allowances as may be permitted by regulations of the secretary
9 under section 9.

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

27 In determining the hourly wage an employer is required to pay
28 a tipped employe, the amount paid such employe by his or her
29 employer shall be an amount equal to: (i) the cash wage paid the
30 employe which for the purposes of the determination shall be not

1 less than [the cash wage required to be paid the employe on the
2 date immediately prior to the effective date of this
3 subparagraph] fifty percent of the wage in effect under section
4 4(a)(9) of this act or fifty percent of the wage in effect under
5 section 4(a)(10) of this act; and (ii) an additional amount on
6 account of the tips received by the employe which is equal to
7 the difference between the wage specified in subparagraph (i)
8 and the wage in effect under section 4 of this act. The
9 additional amount on account of tips may not exceed the value of
10 tips actually received by the employe. The previous sentence
11 shall not apply with respect to any tipped employe unless:

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

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

23 (e) "Occupation" means any industry, trade, business,
24 service, or employment or class or group thereof in which
25 individuals are gainfully employed.

26 (f) "Employee" includes to suffer or to permit to work.

27 (g) "Employer" includes any individual, partnership,
28 association, corporation, business trust, or any person or group
29 of persons acting, directly or indirectly, in the interest of an
30 employer in relation to any employe.

1 (h) "Employee" includes any individual employed by an
2 employer.

3 (i) "Gratuities" means voluntary, monetary contributions
4 received by an employe from a guest, patron or customer for
5 services rendered.

6 Section 2. Section 4(a) of the act is amended by adding
7 paragraphs to read:

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

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

12 * * *

13 (9) Nine dollars (\$9.00) an hour beginning on the effective
14 date of this paragraph.

15 (10) Ten dollars ten cents (\$10.10) an hour beginning one
16 year after the effective date of this paragraph.

17 * * *

18 Section 3. This act shall take effect in 60 days.