
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 523 Session of
2021

INTRODUCED BY BAKER, MARTIN, GORDNER, K. WARD AND MENSCH,
APRIL 9, 2021

REFERRED TO LABOR AND INDUSTRY, APRIL 9, 2021

AN ACT

1 Providing for statutory construction of Pennsylvania wage and
2 hour laws.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Statutory
7 Construction of Wage and Hour Laws Act.

8 Section 2. Declaration of purpose.

9 The General Assembly finds and declares as follows:

10 (1) Many employers in this Commonwealth are subject to
11 dual coverage under the Fair Labor Standards Act of 1938 (52
12 Stat. 1060, 29 U.S.C. § 201 et seq.) and the act of January
13 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of
14 1968.

15 (2) The Congress of the United States and the United
16 States Department of Labor have a robust history of amending
17 and revising the Fair Labor Standards Act of 1938 and its
18 implementing regulations and interpretive guidance, including

1 29 U.S.C. Ch. 9 (relating to portal-to-portal pay) and 29 CFR
2 Pt. 541 (relating to defining and delimiting the exemptions
3 for executive, administrative, professional, computer and
4 outside sales employees).

5 (3) The General Assembly seeks to avoid, to the greatest
6 extent possible and consistent with the public policy of the
7 Commonwealth, the burdening of employers and employees with
8 two different sets of Federal and State standards.

9 (4) As a result of the General Assembly and the
10 Department of Labor and Industry of the Commonwealth failing
11 to update in accordance with the amendments and revisions to
12 the Fair Labor Standards Act of 1938 and its implementing
13 regulations and interpretive guidance, unintended
14 discrepancies have arisen between Federal and State law.

15 (5) The discrepancies between Federal and State law have
16 caused confusion for employers and employees and have
17 resulted in instances in which good faith compliance with
18 Federal law has nonetheless been deemed to be in violation of
19 State law.

20 Section 3. Construction of The Minimum Wage Act of 1968.

21 The following apply:

22 (1) The act of January 17, 1968 (P.L.11, No.5), known as
23 The Minimum Wage Act of 1968, shall be construed in pari
24 materia with 29 U.S.C. Ch. 9 (relating to portal-to-portal
25 pay) and sections 7 and 13 and the other provisions of the
26 Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. §
27 201 et seq.), including regulations in effect on or after the
28 effective date of this act.

29 (2) The minimum cash wage for tipped employees shall be
30 \$2.83 per hour. If the minimum cash wage for tipped employees

1 specified in the Fair Labor Standards Act of 1938 is
2 increased above the minimum cash wage required under this
3 section, the minimum cash wage required under this section
4 shall be increased by the same amounts and effective the same
5 date as the increases under the Fair Labor Standards Act of
6 1938. The Secretary of Labor and Industry shall transmit
7 notice to the Legislative Reference Bureau for publication in
8 the Pennsylvania Bulletin of any increase to the minimum cash
9 wage as provided by this paragraph.

10 Section 4. Construction of this act.

11 Nothing in this act shall be construed:

12 (1) to modify or repeal the act of October 9, 2008
13 (P.L.1376, No.102), known as the Prohibition of Excessive
14 Overtime in Health Care Act; or

15 (2) to preempt Federal law or to otherwise excuse
16 noncompliance with any Federal law establishing a higher
17 standard than the standard established under the act of
18 January 17, 1968 (P.L.11, No.5), known as The Minimum Wage
19 Act of 1968.

20 Section 5. Repeals.

21 All acts and parts of acts are repealed insofar as they are
22 inconsistent with this act.

23 Section 6. Abrogation of regulations.

24 All regulations and parts of regulations are abrogated
25 insofar as they are inconsistent with this act.

26 Section 7. Effective date.

27 This act shall take effect in 30 days.