

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 836 Session of 2015

INTRODUCED BY LEACH, HAYWOOD AND FONTANA, MAY 14, 2015

REFERRED TO LABOR AND INDUSTRY, MAY 14, 2015

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 definitions, for minimum  
 9 wages and for civil actions.

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

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

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

16 \* \* \*

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

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

18 [In determining the hourly wage an employer is required to  
19 pay a tipped employe, the amount paid such employe by his or her  
20 employer shall be an amount equal to: (i) the cash wage paid the  
21 employe which for the purposes of the determination shall be not  
22 less than the cash wage required to be paid the employe on the  
23 date immediately prior to the effective date of this  
24 subparagraph; and (ii) an additional amount on account of the  
25 tips received by the employe which is equal to the difference  
26 between the wage specified in subparagraph (i) and the wage in  
27 effect under section 4 of this act. The additional amount on  
28 account of tips may not exceed the value of tips actually  
29 received by the employe. The previous sentence shall not apply  
30 with respect to any tipped employe unless:

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

3 (2) All tips received by such employe have been retained by  
4 the employe and shall not be surrendered to the employer to be  
5 used as wages to satisfy the requirement to pay the current  
6 hourly minimum rate in effect; where the gratuity is added to  
7 the charge made by the establishment, either by the management,  
8 or by the customer, the gratuity shall become the property of  
9 the employe; except that this subsection shall not be construed  
10 to prohibit the pooling of tips among employes who customarily  
11 and regularly receive tips.] An employer shall pay a tipped  
12 employe the minimum wage under section 4(a).

13 \* \* \*

14 Section 2. Section 4(a) of the act, amended July 5, 2012  
15 (P.L.987, No.109), is amended to read:

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

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

20 (1) Two dollars sixty-five cents (\$2.65) an hour upon the  
21 effective date of this amendment.

22 (2) Two dollars ninety cents (\$2.90) an hour during the year  
23 beginning January 1, 1979.

24 (3) Three dollars ten cents (\$3.10) an hour during the year  
25 beginning January 1, 1980.

26 (4) Three dollars thirty-five cents (\$3.35) an hour after  
27 December 31, 1980.

28 (5) Three dollars seventy cents (\$3.70) an hour beginning  
29 February 1, 1989.

30 (6) Five dollars fifteen cents (\$5.15) an hour beginning

1 September 1, 1997.

2 (7) Six dollars twenty-five cents (\$6.25) an hour beginning  
3 January 1, 2007.

4 (8) Seven dollars fifteen cents (\$7.15) an hour beginning  
5 July 1, 2007.

6 (9) Fifteen dollars (\$15.00) an hour beginning thirty days  
7 after the effective date of this paragraph.

8 (10) One year after the effective date of paragraph (9), and  
9 each year thereafter, the secretary shall determine the minimum  
10 wage to be in effect for the subsequent one-year period by  
11 taking the previous year's minimum wage and increasing it by the  
12 annual percentage increase in the Consumer Price Index for all  
13 Urban Consumers (CPI-U), or its successor publication, for the  
14 Pennsylvania, New Jersey, Delaware and Maryland area, and  
15 rounding that amount to the next highest multiple of five cents  
16 (\$0.05).

17 \* \* \*

18 Section 3. Section 13 of the act is amended to read:

19 Section 13. Civil Actions.--If any employe is paid by his or  
20 her employer less than the minimum wages provided by section 4  
21 of this act or by any regulation issued thereunder, such worker  
22 may recover in a civil action treble the full amount of such  
23 minimum wage less any amount actually paid to the worker by the  
24 employer, together with costs and such reasonable attorney's  
25 fees as may be allowed by the court, and any agreement between  
26 the employer and the worker to work for less than such minimum  
27 wage shall be no defense to such action. At the request of any  
28 employe paid less than the minimum wage to which such employe  
29 was entitled under this act and regulations issued thereunder,  
30 the secretary may take an assignment of such wage claim, in

1 trust for the assigning worker and may bring any legal action  
2 necessary to collect such claim, and the employer shall be  
3 required to pay the cost and such reasonable attorney's fees as  
4 may be allowed by the court.

5 Section 4. This act shall take effect in 60 days.