

HOUSE BILL 2793

By Johnson G

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 4 and Title 50, Chapter 2, relative to wages.

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

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 2, is amended by adding the following as a new part:

50-2-301.

As used in this part:

- (1) "Commissioner" means the commissioner of labor and workforce development or the commissioner's designee;
- (2) "Department" means the department of labor and workforce development;
- (3) "Employ" means to permit or suffer to work in employment or a gainful occupation;
- (4) "Employee" means an individual:
 - (A) Born or naturalized in the United States, subject to its jurisdiction, and employed by an employer; or
 - (B) Legally present in this country and employed by an employer;
- (5) "Employer" includes an individual, partnership, association, corporation, business trust, legal representative, or any organized group or persons, not involved in interstate commerce, acting directly or indirectly in the interest of an employer in relation to an employee; and
- (6) "Wages":

(A) Means compensation paid to an employee in the form of legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; and

(B) May include the reasonable cost to the employer, as determined by the commissioner, of furnishing meals or lodging to an employee, if furnished by the employer and used by the employee.

50-2-302.

(a) An employer shall pay each employee wages at an hourly rate not less than the federal minimum wage established pursuant to the federal Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), as amended, or pay each employee wages at an hourly rate not less than the minimum wage established pursuant to the schedule in subsection (b), whichever rate is greater.

(b) Changes to the minimum wage in this state must be made according to the following schedule:

(1) On and after January 1, 2023, the minimum wage is not less than twelve dollars (\$12.00) an hour;

(2) On and after January 1, 2024, the minimum wage is not less than thirteen dollars (\$13.00) an hour;

(3) On and after January 1, 2025, the minimum wage is not less than fourteen dollars (\$14.00) an hour;

(4) On and after January 1, 2026, the minimum wage is not less than fifteen dollars (\$15.00) an hour; and

(5) On and after January 1, 2027, the minimum wage must be examined annually by the commissioner and increased to an amount commensurate with

the cost of living in rule, if a minimum wage of fifteen dollars (\$15.00) an hour is not commensurate with the cost of living.

(c) Notwithstanding subsection (b), an employer shall not pay an employee less than one and one-half (1.5) times the regular wage rate for any work done by the employee in excess of forty (40) hours during a work week.

50-2-303.

(a) An employer who violates the minimum wage requirements of this part is liable to the employee affected for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of an employee in an action brought in a court of competent jurisdiction to recover unpaid wages under this part, the judgment must include, in addition to the unpaid wages adjudged to be due, an amount equal to those wages as damages. In addition to a judgment awarded to the employee, the court shall require the employer to pay court costs and reasonable attorney's fees incurred by the employee.

(b) An action to recover damages pursuant to this section must be instituted within two (2) years from the date the wages were due, except in a case where the court finds the employer willfully violated this part, then the action to recover damages must be instituted within three (3) years.

50-2-304.

In the administration of this part, the commissioner shall cooperate, to the fullest extent with this part, with the administrator of the wage and hour division of the United States department of labor.

50-2-305.

This part does not affect or diminish the right of employees to bargain collectively through representatives of the employees' own choosing in order to establish wages in excess of the applicable minimum wages under this part.

50-2-306.

Employees excluded pursuant to 29 U.S.C. § 213 are exempt from this part to the same extent those employees are exempt under that federal law.

50-2-307.

Within existing resources of the department, the commissioner shall promulgate rules to effectuate this part that are consistent with the federal Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.). The rules must be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. If a provision of this act or its application to a person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2022, the public welfare requiring it.