

# HOUSE BILL No. 1192

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-2.

**Synopsis:** Minimum wage. Amends the definition of "employee" for the purposes of the minimum wage statute. Increases the minimum wage paid to certain employees in Indiana as follows: (1) After June 30, 2024, from \$7.25 an hour to \$9.02 an hour. (2) After December 31, 2024, from \$9.02 an hour to \$10.07 an hour. (3) After December 31, 2025, from \$10.07 an hour to \$11.11 an hour. (4) After December 31, 2026, from \$11.11 an hour to \$12.10 an hour. Provides that after December 31, 2027, and each subsequent December 31, the hourly minimum wage increases at the same percentage as any increase in the Consumer Price Index for the preceding calendar year. Increases the cash wage paid to tipped employees as follows: (1) After June 30, 2024, from \$2.13 an hour to \$3.30 an hour. (2) After December 31, 2024, from \$3.30 an hour to \$4.71 an hour. (3) After December 31, 2025, from \$4.71 an hour to \$6.12 an hour. (4) After December 31, 2026, from \$6.12 an hour to \$7.54 an hour. Provides that after December 31, 2027, and continuing for each subsequent December 31, the cash wage required to be paid to employees is equal to 70% of the hourly minimum wage. Provides that, if the federal minimum wage or cash wage is higher than the state minimum wage or cash wage, employers are required to pay the higher federal rate.

**Effective:** July 1, 2023.

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January 10, 2023, read first time and referred to Committee on Employment, Labor and Pensions.

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First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1192

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-2-2-3, AS AMENDED BY THE TECHNICAL  
2 CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS  
3 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:  
4 Sec. 3. As used in this chapter:  
5 "Commissioner" means the commissioner of labor or the  
6 commissioner's authorized representative.  
7 "Department" means the department of labor.  
8 "Occupation" means an industry, trade, business, or class of work  
9 in which employees are gainfully employed.  
10 "Employer" means any individual, partnership, association, limited  
11 liability company, corporation, business trust, the state, or other  
12 governmental agency or political subdivision during any work week in  
13 which they have two (2) or more employees. However, **except as**  
14 **provided in section 14 of this chapter**, it shall not include any  
15 employer who is subject to the minimum wage provisions of the federal  
16 Fair Labor Standards Act of 1938, as amended (29 U.S.C. ~~201-209~~).  
17 **201-219**).



1 "Employee" means any person employed or permitted to work or  
 2 perform any service for remuneration or under any contract of hire,  
 3 written or oral, express or implied by an employer in any occupation,  
 4 but shall not include any of the following:

5 (a) Persons less than sixteen (16) years of age.

6 (b) Persons engaged in an independently established trade,  
 7 occupation, profession, or business who, in performing the  
 8 services in question, are free from control or direction both under  
 9 a contract of service and in fact.

10 (c) Persons performing services not in the course of the  
 11 employing unit's trade or business.

12 (d) Persons employed on a commission basis.

13 (e) Persons employed by their own parent, spouse, or child.

14 (f) Members of any religious order performing any service for that  
 15 order, any ordained, commissioned, or licensed minister, priest,  
 16 rabbi, sexton, or Christian Science reader, and volunteers  
 17 performing services for any religious or charitable organization.

18 (g) Persons performing services as student nurses in the employ  
 19 of a hospital or nurses training school while enrolled and  
 20 regularly attending classes in a nurses training school chartered  
 21 or approved under law, or students performing services in the  
 22 employ of persons licensed as both funeral directors and  
 23 embalmers as a part of their requirements for apprenticeship to  
 24 secure an embalmer's license or a funeral director's license from  
 25 the state, or during their attendance at any schools required by law  
 26 for securing an embalmer's or funeral director's license.

27 (h) Persons who have completed a four (4) year course in a  
 28 medical school approved by law when employed as interns or  
 29 resident physicians by any accredited hospital.

30 (i) Students performing services for any school, college, or  
 31 university in which they are enrolled and are regularly attending  
 32 classes.

33 (j) Persons with physical or mental disabilities performing  
 34 services for nonprofit organizations organized primarily for the  
 35 purpose of providing employment for persons with disabilities or  
 36 for assisting in their therapy and rehabilitation **only if the persons**  
 37 **performing services under this subdivision are provided with:**

38 **(1) housing by the nonprofit organization; or**

39 **(2) housing and support by a relative or family member.**

40 (k) Persons employed as insurance producers, insurance  
 41 solicitors, and outside salesmen, if all their services are performed  
 42 for remuneration solely by commission.



1 (l) Persons performing services for any camping, recreational, or  
 2 guidance facilities operated by a charitable, religious, or  
 3 educational nonprofit organization.

4 (m) Persons engaged in agricultural labor. The term shall include  
 5 only services performed:

6 (1) on a farm, in connection with cultivating the soil, or in  
 7 connection with raising or harvesting any agricultural or  
 8 horticultural commodity, including the raising, shearing,  
 9 feeding, caring for, training, and management of livestock,  
 10 bees, poultry, and furbearing animals and wildlife;

11 (2) in the employ of the owner or tenant or other operator of a  
 12 farm, in connection with the operation, management,  
 13 conservation, improvement, or maintenance of the farm and its  
 14 tools and equipment if the major part of the service is  
 15 performed on a farm;

16 (3) in connection with:

17 (A) the production or harvesting of maple sugar or maple  
 18 syrup or any commodity defined as an agricultural  
 19 commodity in the Agricultural Marketing Act, as amended  
 20 (12 U.S.C. 1141j);

21 (B) the raising or harvesting of mushrooms;

22 (C) the hatching of poultry; or

23 (D) the operation or maintenance of ditches, canals,  
 24 reservoirs, or waterways used exclusively for supplying and  
 25 storing water for farming purposes; and

26 (4) in handling, planting, drying, packing, packaging,  
 27 processing, freezing, grading, storing, or delivering to storage,  
 28 to market, or to a carrier for transportation to market, any  
 29 agricultural or horticultural commodity, but only if service is  
 30 performed as an incident to ordinary farming operation or, in  
 31 the case of fruits and vegetables, as an incident to the  
 32 preparation of fruits and vegetables for market. However, this  
 33 exception shall not apply to services performed in connection  
 34 with any agricultural or horticultural commodity after its  
 35 delivery to a terminal market or processor for preparation or  
 36 distribution for consumption.

37 As used in this subdivision, "farm" includes stock, dairy, poultry,  
 38 fruit, furbearing animals, and truck farms, nurseries, orchards, or  
 39 greenhouses or other similar structures used primarily for the  
 40 raising of agricultural or horticultural commodities.

41 (n) Those persons employed in executive, administrative, or  
 42 professional occupations who have the authority to employ or



1 discharge and who earn one hundred fifty dollars (\$150) or more  
2 a week, and outside salesmen.

3 (o) Any person not employed for more than four (4) weeks in any  
4 four (4) consecutive three (3) month periods.

5 (p) Any employee with respect to whom the Interstate Commerce  
6 Commission has power to establish qualifications and maximum  
7 hours of service under the federal Motor Carrier Act of 1935 (49  
8 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

9 (q) A person engaged in services as a direct seller. The term shall  
10 include only services performed:

11 (1) by a person that is in the trade or business of:

12 (A) selling, or soliciting the sale of, consumer products or  
13 services to any buyer on a buy-sell basis,  
14 deposit-commission basis, or similar basis, in any place  
15 other than in a permanent retail establishment; or

16 (B) selling, or soliciting the sale of, consumer products or  
17 services in any place other than in a permanent retail  
18 establishment;

19 (2) when substantially all the remuneration, whether or not  
20 paid in cash, for the performance of the services is directly  
21 related to sales or other output, including the performance of  
22 services, rather than the number of hours worked; and

23 (3) when the services performed by the person are performed  
24 pursuant to a written contract and the contract provides that  
25 the person who performs the services will not be treated as an  
26 employee for tax purposes under the contract.

27 **"Gainfully employed" means that an employee is receiving**  
28 **consistent work and payment from an employer.**

29 SECTION 2. IC 22-2-2-4, AS AMENDED BY P.L.147-2020,  
30 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2023]: Sec. 4. (a) No employer having employees subject to  
32 any provisions of this section shall discriminate, within any  
33 establishment in which employees are employed, between employees  
34 on the basis of sex by paying to employees in such establishment a rate  
35 less than the rate at which the employer pays wages to employees of the  
36 opposite sex in such establishment for equal work on jobs the  
37 performance of which requires equal skill, effort, and responsibility,  
38 and which are performed under similar working conditions, except  
39 where such payment is made pursuant to:

40 (1) a seniority system;

41 (2) a merit system;

42 (3) a system which measures earnings by quantity or quality of



1 production; or

2 (4) a differential based on any other factor other than sex.

3 (b) An employer who is paying a wage rate differential in violation  
4 of subsection (a) shall not, in order to comply with subsection (a),  
5 reduce the wage rate of any employee, and no labor organization, or its  
6 agents, representing employees of an employer having employees  
7 subject to subsection (a) shall cause or attempt to cause such an  
8 employer to discriminate against an employee in violation of  
9 subsection (a).

10 (c) Except as provided in subsection ~~(d)~~; **(j)**, every employer  
11 employing at least two (2) employees during a work week shall, in any  
12 work week in which the employer is subject to this chapter, pay each  
13 of the employees in any work week beginning on or after June 30,  
14 2007, **and before July 1, 2024**, wages of not less than the minimum  
15 wage payable under the federal Fair Labor Standards Act of 1938, as  
16 amended (29 U.S.C. ~~201 et seq.~~; **201-219**).

17 **(d) Except as provided in subsection (j), every employer shall,**  
18 **in any work week in which the employer is subject to this chapter,**  
19 **pay each of the employees in any work week beginning after June**  
20 **30, 2024, and before January 1, 2025, wages of not less than nine**  
21 **dollars and two cents (\$9.02) an hour.**

22 (e) Except as provided in subsection (j), every employer shall, in  
23 any work week in which the employer is subject to this chapter,  
24 pay each of the employees in any work week beginning after  
25 December 31, 2024, and before January 1, 2026, wages of not less  
26 than ten dollars and seven cents (\$10.07) an hour.

27 (f) Except as provided in subsection (j), every employer shall, in  
28 any work week in which the employer is subject to this chapter,  
29 pay each of the employees in any work week beginning after  
30 December 31, 2025, and before January 1, 2027, wages of not less  
31 than eleven dollars and eleven cents (\$11.11) an hour.

32 (g) Except as provided in subsection (j), every employer shall, in  
33 any work week in which the employer is subject to this chapter,  
34 pay each of the employees in any work week beginning after  
35 December 31, 2026, and before January 1, 2028, wages of not less  
36 than twelve dollars and ten cents (\$12.10) an hour.

37 (h) Except as provided in subsection (j), every employer shall,  
38 in any work week in which the employer is subject to this chapter,  
39 pay each of the employees in any work week beginning after  
40 December 31, 2027, and continuing for each subsequent December  
41 31, an increase in the hourly minimum wage set by this section in  
42 the same percentage as any increase in the Consumer Price Index



1 for Urban Wage Earners and Clerical Workers for the preceding  
2 calendar year.

3 (i) If the minimum hourly wage required under subsections (d)  
4 through (h) (whichever is applicable) is less than the minimum  
5 wage payable under the federal Fair Labor Standards Act of 1938,  
6 as amended (29 U.S.C. 201-219), an employer shall pay the  
7 minimum wage payable under the federal Fair Labor Standards  
8 Act of 1938, as amended (29 U.S.C. 201-219).

9 ~~(d)~~ (j) An employer subject to ~~subsection (e)~~ subsections (c)  
10 through (i) (whichever is applicable) is permitted to apply a tip credit  
11 in determining the amount of cash wage paid to tipped employees. In  
12 determining the wage an employer is required to pay a tipped  
13 employee, the amount paid the employee by the employee's employer  
14 must be an amount equal to:

15 (1) the cash wage paid the employee, which for purposes of the  
16 determination may be not less than:

17 (A) in any work week beginning before July 1, 2024, the  
18 cash wage required to be paid to employees covered under the  
19 federal Fair Labor Standards Act of 1938, as amended (29  
20 U.S.C. 203(m)(1)) on August 20, 1996, which amount is two  
21 dollars and thirteen cents (\$2.13) an hour; and

22 (B) in any work week beginning after June 30, 2024, and  
23 before January 1, 2025, three dollars and thirty cents  
24 (\$3.30) an hour;

25 (C) in any work week beginning after December 31, 2024,  
26 and before January 1, 2026, four dollars and seventy-one  
27 cents (\$4.71) an hour;

28 (D) in any work week beginning after December 31, 2025,  
29 and before January 1, 2027, six dollars and twelve cents  
30 (\$6.12) an hour;

31 (E) in any work week beginning after December 31, 2026,  
32 and before January 1, 2028, seven dollars and fifty-four  
33 cents (\$7.54) an hour;

34 (F) in any work week beginning after December 31, 2027,  
35 and continuing for each subsequent December 31, the cash  
36 wage required to be paid to employees is equal to seventy  
37 percent (70%) of the hourly minimum wage required  
38 under subsections (h) and (i) (whichever is applicable); or  
39 (G) if the cash wage required under clauses (A) through  
40 (F) (whichever is applicable) is less than the cash wage  
41 required to be paid to employees covered under the federal  
42 Fair Labor Standards Act of 1938, as amended (29 U.S.C.



- 1                   **201-219), an employer shall pay the cash wage payable**  
 2                   **under the federal Fair Labor Standards Act of 1938, as**  
 3                   **amended (29 U.S.C. 201-219); and**  
 4                   (2) an additional amount on account of the tips received by the  
 5                   employee, which amount is equal to the difference between the  
 6                   wage specified in subdivision (1) and the wage in effect under  
 7                   ~~subsection (e)~~: **subsections (c) through (i) (whichever is**  
 8                   **applicable).**  
 9                   An employer is responsible for supporting the amount of tip credit  
 10                  taken through reported tips by the employees.  
 11                  ~~(e)~~ **(k)** This section does not apply if an employee:  
 12                   (1) provides companionship services to the aged and infirm (as  
 13                   defined in 29 CFR 552.6); and  
 14                   (2) is employed by an employer or agency other than the family  
 15                   or household using the companionship services, as provided in 29  
 16                   CFR 552.109 (a).  
 17                  **This subsection expires July 1, 2024.**  
 18                  ~~(f)~~ **(l)** Except as otherwise provided in this section, no employer  
 19                  shall employ any employee for a work week longer than forty (40)  
 20                  hours unless the employee receives compensation for employment in  
 21                  excess of forty (40) hours at a rate not less than one and one-half (1.5)  
 22                  times the regular rate at which the employee is employed.  
 23                  ~~(g)~~ **(m)** For purposes of this section the following apply:  
 24                   (1) "Overtime compensation" means the compensation required  
 25                   by subsection ~~(f)~~: **(l)**.  
 26                   (2) "Compensatory time" and "compensatory time off" mean  
 27                   hours during which an employee is not working, which are not  
 28                   counted as hours worked during the applicable work week or  
 29                   other work period for purposes of overtime compensation, and for  
 30                   which the employee is compensated at the employee's regular  
 31                   rate.  
 32                   (3) "Regular rate" means the rate at which an employee is  
 33                   employed is considered to include all remuneration for  
 34                   employment paid to, or on behalf of, the employee, but is not  
 35                   considered to include the following:  
 36                   (A) Sums paid as gifts, payments in the nature of gifts made at  
 37                   Christmas time or on other special occasions, as a reward for  
 38                   service, the amounts of which are not measured by or  
 39                   dependent on hours worked, production, or efficiency.  
 40                   (B) Payments made for occasional periods when no work is  
 41                   performed due to vacation, holiday, illness, failure of the  
 42                   employer to provide sufficient work, or other similar cause,





1 reasonable payments for traveling expenses, or other expenses,  
 2 incurred by an employee in the furtherance of the employer's  
 3 interests and properly reimbursable by the employer, and other  
 4 similar payments to an employee which are not made as  
 5 compensation for the employee's hours of employment.

6 (C) Sums paid in recognition of services performed during a  
 7 given period if:

8 (i) both the fact that payment is to be made and the amount  
 9 of the payment are determined at the sole discretion of the  
 10 employer at or near the end of the period and not pursuant  
 11 to any prior contract, agreement, or promise causing the  
 12 employee to expect the payments regularly;

13 (ii) the payments are made pursuant to a bona fide profit  
 14 sharing plan or trust or bona fide thrift or savings plan,  
 15 meeting the requirements of the administrator set forth in  
 16 appropriately issued regulations, having due regard among  
 17 other relevant factors, to the extent to which the amounts  
 18 paid to the employee are determined without regard to hours  
 19 of work, production, or efficiency; or

20 (iii) the payments are talent fees paid to performers,  
 21 including announcers, on radio and television programs.

22 (D) Contributions irrevocably made by an employer to a  
 23 trustee or third person pursuant to a bona fide plan for  
 24 providing old age, retirement, life, accident, or health  
 25 insurance or similar benefits for employees.

26 (E) Extra compensation provided by a premium rate paid for  
 27 certain hours worked by the employee in any day or work  
 28 week because those hours are hours worked in excess of eight  
 29 (8) in a day or in excess of the maximum work week  
 30 applicable to the employee under subsection ~~(F)~~ (I) or in excess  
 31 of the employee's normal working hours or regular working  
 32 hours, as the case may be.

33 (F) Extra compensation provided by a premium rate paid for  
 34 work by the employee on Saturdays, Sundays, holidays, or  
 35 regular days of rest, or on the sixth or seventh day of the work  
 36 week, where the premium rate is not less than one and one-half  
 37 (1.5) times the rate established in good faith for like work  
 38 performed in nonovertime hours on other days.

39 (G) Extra compensation provided by a premium rate paid to  
 40 the employee, in pursuance of an applicable employment  
 41 contract or collective bargaining agreement, for work outside  
 42 of the hours established in good faith by the contract or



1 agreement as the basic, normal, or regular workday (not  
 2 exceeding eight (8) hours) or work week (not exceeding the  
 3 maximum work week applicable to the employee under  
 4 subsection ~~(f)~~ **(l)**) where the premium rate is not less than one  
 5 and one-half (1.5) times the rate established in good faith by  
 6 the contract or agreement for like work performed during the  
 7 workday or work week.

8 ~~(h)~~ **(n)** No employer shall be considered to have violated subsection  
 9 ~~(f)~~ **(l)** by employing any employee for a work week in excess of that  
 10 specified in subsection ~~(f)~~ **(l)** without paying the compensation for  
 11 overtime employment prescribed therein if the employee is so  
 12 employed:

13 (1) in pursuance of an agreement, made as a result of collective  
 14 bargaining by representatives of employees certified as bona fide  
 15 by the National Labor Relations Board, which provides that no  
 16 employee shall be employed more than one thousand forty (1,040)  
 17 hours during any period of twenty-six (26) consecutive weeks; or  
 18 (2) in pursuance of an agreement, made as a result of collective  
 19 bargaining by representatives of employees certified as bona fide  
 20 by the National Labor Relations Board, which provides that  
 21 during a specified period of fifty-two (52) consecutive weeks the  
 22 employee shall be employed not more than two thousand two  
 23 hundred forty (2,240) hours and shall be guaranteed not less than  
 24 one thousand eight hundred forty (1,840) hours (or not less than  
 25 forty-six (46) weeks at the normal number of hours worked per  
 26 week, but not less than thirty (30) hours per week) and not more  
 27 than two thousand eighty (2,080) hours of employment for which  
 28 the employee shall receive compensation for all hours guaranteed  
 29 or worked at rates not less than those applicable under the  
 30 agreement to the work performed and for all hours in excess of  
 31 the guaranty which are also in excess of the maximum work week  
 32 applicable to the employee under subsection ~~(f)~~ **(l)** or two  
 33 thousand eighty (2,080) in that period at rates not less than one  
 34 and one-half (1.5) times the regular rate at which the employee is  
 35 employed.

36 ~~(h)~~ **(o)** No employer shall be considered to have violated subsection  
 37 ~~(f)~~ **(l)** by employing any employee for a work week in excess of the  
 38 maximum work week applicable to the employee under subsection ~~(f)~~  
 39 **(l)** if the employee is employed pursuant to a bona fide individual  
 40 contract, or pursuant to an agreement made as a result of collective  
 41 bargaining by representatives of employees, if the duties of the  
 42 employee necessitate irregular hours of work, and the contract or



- 1 agreement includes the following:
- 2 (1) Specifies a regular rate of pay of not less than the minimum
- 3 hourly rate provided in subsections (c) ~~and (d)~~ **through (j)**
- 4 (whichever is applicable) and compensation at not less than one
- 5 and one-half (1.5) times that rate for all hours worked in excess
- 6 of the maximum work week.
- 7 (2) Provides a weekly guaranty of pay for not more than sixty (60)
- 8 hours based on the rates so specified.
- 9 ~~(j)~~ **(p)** No employer shall be considered to have violated subsection
- 10 ~~(i)~~ **(l)** by employing any employee for a work week in excess of the
- 11 maximum work week applicable to the employee under that subsection
- 12 if, pursuant to an agreement or understanding arrived at between the
- 13 employer and the employee before performance of the work, the
- 14 amount paid to the employee for the number of hours worked by the
- 15 employee in the work week in excess of the maximum work week
- 16 applicable to the employee under that subsection:
- 17 (1) in the case of an employee employed at piece rates, is
- 18 computed at piece rates not less than one and one-half (1.5) times
- 19 the bona fide piece rates applicable to the same work when
- 20 performed during nonovertime hours;
- 21 (2) in the case of an employee performing two (2) or more kinds
- 22 of work for which different hourly or piece rates have been
- 23 established, is computed at rates not less than one and one-half
- 24 (1.5) times those bona fide rates applicable to the same work
- 25 when performed during nonovertime hours; or
- 26 (3) is computed at a rate not less than one and one-half (1.5) times
- 27 the rate established by the agreement or understanding as the
- 28 basic rate to be used in computing overtime compensation
- 29 thereunder, provided that the rate so established shall be
- 30 substantially equivalent to the average hourly earnings of the
- 31 employee, exclusive of overtime premiums, in the particular work
- 32 over a representative period of time;
- 33 and if the employee's average hourly earnings for the work week
- 34 exclusive of payments described in this section are not less than the
- 35 minimum hourly rate required by applicable law, and extra overtime
- 36 compensation is properly computed and paid on other forms of
- 37 additional pay required to be included in computing the regular rate.
- 38 ~~(k)~~ **(q)** Extra compensation paid as described in this section shall be
- 39 creditable toward overtime compensation payable pursuant to this
- 40 section.
- 41 ~~(l)~~ **(r)** No employer shall be considered to have violated subsection
- 42 ~~(i)~~ **(l)** by employing any employee of a retail or service establishment



1 for a work week in excess of the applicable work week specified  
2 therein, if:

- 3 (1) the regular rate of pay of the employee is in excess of one and
- 4 one-half (1.5) times the minimum hourly rate applicable to the
- 5 employee under section 2 of this chapter; and
- 6 (2) more than half of the employee's compensation for a
- 7 representative period (not less than one (1) month) represents
- 8 commissions on goods or services.

9 In determining the proportion of compensation representing  
10 commissions, all earnings resulting from the application of a bona fide  
11 commission rate shall be considered commissions on goods or services  
12 without regard to whether the computed commissions exceed the draw  
13 or guarantee.

14 ~~(m)~~ (s) No employer engaged in the operation of a hospital or an  
15 establishment which is an institution primarily engaged in the care of  
16 the sick, the aged, or individuals with a mental illness or defect who  
17 reside on the premises shall be considered to have violated subsection  
18 ~~(f)~~ (l) if, pursuant to an agreement or understanding arrived at between  
19 the employer and the employee before performance of the work, a work  
20 period of fourteen (14) consecutive days is accepted in lieu of the work  
21 week of seven (7) consecutive days for purposes of overtime  
22 computation and if, for the employee's employment in excess of eight  
23 (8) hours in any workday and in excess of eighty (80) hours in that  
24 fourteen (14) day period, the employee receives compensation at a rate  
25 not less than one and one-half (1.5) times the regular rate at which the  
26 employee is employed.

27 ~~(n)~~ (t) No employer shall employ any employee in domestic service  
28 in one (1) or more households for a work week longer than forty (40)  
29 hours unless the employee receives compensation for that employment  
30 in accordance with subsection ~~(f)~~ (l).

31 ~~(o)~~ (u) In the case of an employee of an employer engaged in the  
32 business of operating a street, a suburban or interurban electric railway,  
33 or a local trolley or motorbus carrier (regardless of whether or not the  
34 railway or carrier is public or private or operated for profit or not for  
35 profit), in determining the hours of employment of such an employee  
36 to which the rate prescribed by subsection ~~(f)~~ (l) applies, there shall be  
37 excluded the hours the employee was employed in charter activities by  
38 the employer if both of the following apply:

- 39 (1) The employee's employment in the charter activities was
- 40 pursuant to an agreement or understanding with the employer
- 41 arrived at before engaging in that employment.
- 42 (2) If employment in the charter activities is not part of the



- 1 employee's regular employment.
- 2 ~~(p)~~ (v) Any employer may employ any employee for a period or  
 3 periods of not more than ten (10) hours in the aggregate in any work  
 4 week in excess of the maximum work week specified in subsection ~~(f)~~  
 5 (l) without paying the compensation for overtime employment  
 6 prescribed in subsection ~~(f)~~; (l), if during that period or periods the  
 7 employee is receiving remedial education that:
- 8 (1) is provided to employees who lack a high school diploma or  
 9 educational attainment at the eighth grade level;
- 10 (2) is designed to provide reading and other basic skills at an  
 11 eighth grade level or below; and
- 12 (3) does not include job specific training.
- 13 ~~(q)~~ (w) Subsection ~~(f)~~ (l) does not apply to an employee of a motion  
 14 picture theater.
- 15 ~~(r)~~ (x) Subsection ~~(f)~~ (l) does not apply to an employee of a seasonal  
 16 amusement or recreational establishment, an organized camp, or a  
 17 religious or nonprofit educational conference center that is exempt  
 18 under the federal Fair Labor Standards Act of 1938, as amended (29  
 19 U.S.C. ~~213~~; **201-219**).
- 20 ~~(s)~~ (y) Subsection ~~(f)~~ (l) does not apply to an employee of an air  
 21 carrier subject to Title II of the federal Railway Labor Act (45 U.S.C.  
 22 181 et seq.) to the extent that the hours worked by the employee during  
 23 a work week in excess of forty (40) hours are not required by the air  
 24 carrier but are arranged through a voluntary agreement between  
 25 employees to trade or reassign their scheduled work hours.
- 26 SECTION 3. IC 22-2-2-14 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 28 1, 2023]: **Sec. 14. (a) This section applies to an employer that is  
 29 subject to the minimum wage provisions of the federal Fair Labor  
 30 Standards Act of 1938, as amended (29 U.S.C. 201-219).**
- 31 **(b) Except as provided in subsection (c), if the minimum hourly  
 32 wage required under section 4 of this chapter is higher than the  
 33 minimum wage provisions of the federal Fair Labor Standards Act  
 34 of 1938, as amended (29 U.S.C. 201-219), an employer shall pay the  
 35 minimum hourly wage required under section 4 of this chapter.  
 36 However, if the minimum wage provisions of the federal Fair  
 37 Labor Standards Act of 1938, as amended (29 U.S.C. 201-219), are  
 38 higher than the minimum hourly wage required under section 4 of  
 39 this chapter, an employer shall pay the minimum wage required  
 40 under the provisions of the federal Fair Labor Standards Act of  
 41 1938, as amended (29 U.S.C. 201-219).**
- 42 **(c) Subsection (b) does not apply to an employee subject to 29**



1      **U.S.C. 206(g) or 29 U.S.C. 213.**

