

SENATE BILL No. 160

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-2.

Synopsis: Minimum wage for certain Indiana employees. After: (1) June 30, 2015, increases the minimum wage paid to certain employees in Indiana from \$7.25 to \$8.50; and (2) June 30, 2016, increases the minimum wage paid to certain employees in Indiana from \$8.50 to \$10; an hour. Makes technical corrections and corresponding changes. Removes outdated language.

Effective: July 1, 2015.

Mrvan

January 6, 2015, read first time and referred to Committee on Pensions & Labor.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 160

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 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2015]: Sec. 3. As used in this chapter:
3 "Commissioner" means the commissioner of labor or the
4 commissioner's authorized representative.
5 "Department" means the department of labor.
6 "Occupation" means an industry, trade, business, or class of work
7 in which employees are gainfully employed.
8 "Employer" means any individual, partnership, association, limited
9 liability company, corporation, business trust, the state, or other
10 governmental agency or political subdivision during any work week in
11 which they have two (2) or more employees. However, **except as**
12 **provided in section 14 of this chapter**, it shall not include any
13 employer who is subject to the minimum wage provisions of the federal
14 Fair Labor Standards Act of 1938, as amended (29 U.S.C. ~~201-209~~;
15 **201 et seq.**)
16 "Employee" means any person employed or permitted to work or



1 perform any service for remuneration or under any contract of hire,
2 written or oral, express or implied by an employer in any occupation,
3 but shall not include any of the following:

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

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

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

11 (d) Persons employed on a commission basis.

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

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

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

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

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

32 (j) Persons with physical or mental disabilities performing
33 services for nonprofit organizations organized primarily for the
34 purpose of providing employment for persons with disabilities or
35 for assisting in their therapy and rehabilitation.

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

39 (l) Persons performing services for any camping, recreational, or
40 guidance facilities operated by a charitable, religious, or
41 educational nonprofit organization.

42 (m) Persons engaged in agricultural labor. The term shall include



- 1 only services performed:
- 2 (1) on a farm, in connection with cultivating the soil, or in
- 3 connection with raising or harvesting any agricultural or
- 4 horticultural commodity, including the raising, shearing,
- 5 feeding, caring for, training, and management of livestock,
- 6 bees, poultry, and furbearing animals and wildlife;
- 7 (2) in the employ of the owner or tenant or other operator of a
- 8 farm, in connection with the operation, management,
- 9 conservation, improvement, or maintenance of the farm and its
- 10 tools and equipment if the major part of the service is
- 11 performed on a farm;
- 12 (3) in connection with:
- 13 (A) the production or harvesting of maple sugar or maple
- 14 syrup or any commodity defined as an agricultural
- 15 commodity in the Agricultural Marketing Act, as amended
- 16 (12 U.S.C. 1141j);
- 17 (B) the raising or harvesting of mushrooms;
- 18 (C) the hatching of poultry; or
- 19 (D) the operation or maintenance of ditches, canals,
- 20 reservoirs, or waterways used exclusively for supplying and
- 21 storing water for farming purposes; and
- 22 (4) in handling, planting, drying, packing, packaging,
- 23 processing, freezing, grading, storing, or delivering to storage,
- 24 to market, or to a carrier for transportation to market, any
- 25 agricultural or horticultural commodity, but only if service is
- 26 performed as an incident to ordinary farming operation or, in
- 27 the case of fruits and vegetables, as an incident to the
- 28 preparation of fruits and vegetables for market. However, this
- 29 exception shall not apply to services performed in connection
- 30 with any agricultural or horticultural commodity after its
- 31 delivery to a terminal market or processor for preparation or
- 32 distribution for consumption.
- 33 As used in this subdivision, "farm" includes stock, dairy, poultry,
- 34 fruit, furbearing animals, and truck farms, nurseries, orchards, or
- 35 greenhouses or other similar structures used primarily for the
- 36 raising of agricultural or horticultural commodities.
- 37 (n) Those persons employed in executive, administrative, or
- 38 professional occupations who have the authority to employ or
- 39 discharge and who earn one hundred fifty dollars (\$150) or more
- 40 a week, and outside salesmen.
- 41 (o) Any person not employed for more than four (4) weeks in any
- 42 four (4) consecutive three (3) month periods.



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

SECTION 2. IC 22-2-2-4, AS AMENDED BY P.L.165-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Every employer employing four (4) or more employees during a work week shall:

(1) in any work week beginning on or after July 1, 1968, in which the employer is subject to the provisions of this chapter, pay each of the employer's employees wages of not less than one dollar and twenty-five cents (\$1.25) per hour;

(2) in any work week beginning on or after July 1, 1977, in which the employer is subject to this chapter, pay each of the employer's employees wages of not less than one dollar and fifty cents (\$1.50) per hour;

(3) in any work week beginning on or after January 1, 1978, in which the employer is subject to this chapter, pay each of the employer's employees wages of not less than one dollar and seventy-five cents (\$1.75) per hour; and

(4) in any work week beginning on or after January 1, 1979, in which the employer is subject to this chapter, pay each of the employer's employees wages of not less than two dollars (\$2) per hour.

(b) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on and after July 1, 1990, and before October 1, 1998, wages of not less than three dollars and thirty-five cents (\$3.35) per hour.

(c) An employer subject to subsection (b) is permitted to apply a "tip credit" in determining the amount of cash wage paid to tipped employees. In determining the wage an employer is required to pay a tipped employee, the amount paid the employee by the employee's employer shall be an amount equal to:

(1) the cash wage paid the employee, which for purposes of the determination shall be not less than the cash wage required to be paid to employees covered under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(m)(1)) on August 20, 1996, which amount is two dollars and thirteen cents (\$2.13) an hour; and

(2) an additional amount on account of the tips received by the



- 1 employee, which amount is equal to the difference between the
2 wage specified in subdivision (1) and the wage in effect under
3 subsections (b), (f), (g), ~~and (h)~~, **(i), and (j)**.
- 4 An employer is responsible for supporting the amount of tip credit
5 taken through reported tips by the employees.
- 6 (d) No employer having employees subject to any provisions of this
7 section shall discriminate, within any establishment in which
8 employees are employed, between employees on the basis of sex by
9 paying to employees in such establishment a rate less than the rate at
10 which the employer pays wages to employees of the opposite sex in
11 such establishment for equal work on jobs the performance of which
12 requires equal skill, effort, and responsibility, and which are performed
13 under similar working conditions, except where such payment is made
14 pursuant to:
- 15 (1) a seniority system;
 - 16 (2) a merit system;
 - 17 (3) a system which measures earnings by quantity or quality of
18 production; or
 - 19 (4) a differential based on any other factor other than sex.
- 20 (e) An employer who is paying a wage rate differential in violation
21 of subsection (d) shall not, in order to comply with subsection (d),
22 reduce the wage rate of any employee, and no labor organization, or its
23 agents, representing employees of an employer having employees
24 subject to subsection (d) shall cause or attempt to cause such an
25 employer to discriminate against an employee in violation of
26 subsection (d).
- 27 (f) Except as provided in subsection (c), every employer employing
28 at least two (2) employees during a work week shall, in any work week
29 in which the employer is subject to this chapter, pay each of the
30 employees in any work week beginning on or after October 1, 1998,
31 and before March 1, 1999, wages of not less than four dollars and
32 twenty-five cents (\$4.25) per hour.
- 33 (g) Except as provided in subsections (c) and ~~(f)~~, **(i)**, every employer
34 employing at least two (2) employees during a work week shall, in any
35 work week in which the employer is subject to this chapter, pay each
36 of the employees in any work week beginning on or after March 1,
37 1999, and before July 1, 2007, wages of not less than five dollars and
38 fifteen cents (\$5.15) an hour.
- 39 (h) Except as provided in subsections (c) and ~~(f)~~, **(i)**, every employer
40 employing at least two (2) employees during a work week shall, in any
41 work week in which the employer is subject to this chapter, pay each
42 of the employees in any work week beginning on or after June 30,



1 2007, **and before July 1, 2015**, wages of not less than the minimum
 2 wage payable under the federal Fair Labor Standards Act of 1938, as
 3 amended (29 U.S.C. 201 et seq.).

4 **(i) Except as provided in subsections (c), (k), and (l), every**
 5 **employer shall, in any work week in which the employer is subject**
 6 **to this chapter, pay each of the employees in any work week**
 7 **beginning on or after June 30, 2015, and before July 1, 2016, wages**
 8 **of not less than eight dollars and fifty cents (\$8.50) an hour.**

9 **(j) Except as provided in subsections (c), (k), and (l), every**
 10 **employer shall, in any work week in which the employer is subject**
 11 **to this chapter, pay each of the employees in any work week**
 12 **beginning on or after June 30, 2016, wages of not less than ten**
 13 **dollars (\$10) an hour.**

14 ~~(j)~~ **(k)** This section does not apply if an employee:

15 (1) provides companionship services to the aged and infirm (as
 16 defined in 29 CFR 552.6); and

17 (2) is employed by an employer or agency other than the family
 18 or household using the companionship services, as provided in 29
 19 CFR 552.109 (a).

20 ~~(j)~~ **(l)** This subsection applies only to an employee who has not
 21 attained the age of twenty (20) years. Instead of the rates prescribed by
 22 subsections (c), (f), (g), ~~and (h)~~, **(i), and (j)**, an employer may pay an
 23 employee of the employer, during the first ninety (90) consecutive
 24 calendar days after the employee is initially employed by the employer,
 25 a wage which is not less than:

26 ~~(1) four dollars and twenty-five cents (\$4.25) per hour, effective~~
 27 ~~March 1, 1999; and~~

28 ~~(2) the amount payable under the federal Fair Labor Standards~~
 29 ~~Act of 1938, as amended (29 U.S.C. 201 et seq.), during the first~~
 30 ~~ninety (90) consecutive calendar days after initial employment to~~
 31 ~~an employee who has not attained twenty (20) years of age.~~
 32 ~~effective July 1, 2007.~~

33 However, no employer may take any action to displace employees
 34 (including partial displacements such as reduction in hours, wages, or
 35 employment benefits) for purposes of hiring individuals at the wage
 36 authorized in this subsection.

37 ~~(k)~~ **(m)** Except as otherwise provided in this section, no employer
 38 shall employ any employee for a work week longer than forty (40)
 39 hours unless the employee receives compensation for employment in
 40 excess of the hours above specified at a rate not less than one and
 41 one-half (1.5) times the regular rate at which the employee is
 42 employed.



- 1 ⊕ (n) For purposes of this section the following apply:
 2 (1) "Overtime compensation" means the compensation required
 3 by subsection ~~(k)~~: (m).
 4 (2) "Compensatory time" and "compensatory time off" mean
 5 hours during which an employee is not working, which are not
 6 counted as hours worked during the applicable work week or
 7 other work period for purposes of overtime compensation, and for
 8 which the employee is compensated at the employee's regular
 9 rate.
 10 (3) "Regular rate" means the rate at which an employee is
 11 employed is considered to include all remuneration for
 12 employment paid to, or on behalf of, the employee, but is not
 13 considered to include the following:
 14 (A) Sums paid as gifts, payments in the nature of gifts made at
 15 Christmas time or on other special occasions, as a reward for
 16 service, the amounts of which are not measured by or
 17 dependent on hours worked, production, or efficiency.
 18 (B) Payments made for occasional periods when no work is
 19 performed due to vacation, holiday, illness, failure of the
 20 employer to provide sufficient work, or other similar cause,
 21 reasonable payments for traveling expenses, or other expenses,
 22 incurred by an employee in the furtherance of the employer's
 23 interests and properly reimbursable by the employer, and other
 24 similar payments to an employee which are not made as
 25 compensation for the employee's hours of employment.
 26 (C) Sums paid in recognition of services performed during a
 27 given period if:
 28 (i) both the fact that payment is to be made and the amount
 29 of the payment are determined at the sole discretion of the
 30 employer at or near the end of the period and not pursuant
 31 to any prior contract, agreement, or promise causing the
 32 employee to expect the payments regularly;
 33 (ii) the payments are made pursuant to a bona fide profit
 34 sharing plan or trust or bona fide thrift or savings plan,
 35 meeting the requirements of the administrator set forth in
 36 appropriately issued regulations, having due regard among
 37 other relevant factors, to the extent to which the amounts
 38 paid to the employee are determined without regard to hours
 39 of work, production, or efficiency; or
 40 (iii) the payments are talent fees paid to performers,
 41 including announcers, on radio and television programs.
 42 (D) Contributions irrevocably made by an employer to a



- 1 trustee or third person pursuant to a bona fide plan for
 2 providing old age, retirement, life, accident, or health
 3 insurance or similar benefits for employees.
- 4 (E) Extra compensation provided by a premium rate paid for
 5 certain hours worked by the employee in any day or work
 6 week because those hours are hours worked in excess of eight
 7 (8) in a day or in excess of the maximum work week
 8 applicable to the employee under subsection ~~(k)~~ (m) or in
 9 excess of the employee's normal working hours or regular
 10 working hours, as the case may be.
- 11 (F) Extra compensation provided by a premium rate paid for
 12 work by the employee on Saturdays, Sundays, holidays, or
 13 regular days of rest, or on the sixth or seventh day of the work
 14 week, where the premium rate is not less than one and one-half
 15 (1.5) times the rate established in good faith for like work
 16 performed in nonovertime hours on other days.
- 17 (G) Extra compensation provided by a premium rate paid to
 18 the employee, in pursuance of an applicable employment
 19 contract or collective bargaining agreement, for work outside
 20 of the hours established in good faith by the contract or
 21 agreement as the basic, normal, or regular workday (not
 22 exceeding eight (8) hours) or work week (not exceeding the
 23 maximum work week applicable to the employee under
 24 subsection ~~(k)~~ (m)) where the premium rate is not less than
 25 one and one-half (1.5) times the rate established in good faith
 26 by the contract or agreement for like work performed during
 27 the workday or work week.
- 28 ~~(m)~~ (o) No employer shall be considered to have violated subsection
 29 ~~(k)~~ (m) by employing any employee for a work week in excess of that
 30 specified in subsection ~~(k)~~ (m) without paying the compensation for
 31 overtime employment prescribed therein if the employee is so
 32 employed:
- 33 (1) in pursuance of an agreement, made as a result of collective
 34 bargaining by representatives of employees certified as bona fide
 35 by the National Labor Relations Board, which provides that no
 36 employee shall be employed more than one thousand forty (1,040)
 37 hours during any period of twenty-six (26) consecutive weeks; or
 38 (2) in pursuance of an agreement, made as a result of collective
 39 bargaining by representatives of employees certified as bona fide
 40 by the National Labor Relations Board, which provides that
 41 during a specified period of fifty-two (52) consecutive weeks the
 42 employee shall be employed not more than two thousand two



1 hundred forty (2,240) hours and shall be guaranteed not less than
 2 one thousand eight hundred forty (1,840) hours (or not less than
 3 forty-six (46) weeks at the normal number of hours worked per
 4 week, but not less than thirty (30) hours per week) and not more
 5 than two thousand eighty (2,080) hours of employment for which
 6 the employee shall receive compensation for all hours guaranteed
 7 or worked at rates not less than those applicable under the
 8 agreement to the work performed and for all hours in excess of
 9 the guaranty which are also in excess of the maximum work week
 10 applicable to the employee under subsection ~~(k)~~ **(m)** or two
 11 thousand eighty (2,080) in that period at rates not less than one
 12 and one-half (1.5) times the regular rate at which the employee is
 13 employed.

14 ~~(n)~~ **(p)** No employer shall be considered to have violated subsection
 15 ~~(k)~~ **(m)** by employing any employee for a work week in excess of the
 16 maximum work week applicable to the employee under subsection ~~(k)~~
 17 **(m)** if the employee is employed pursuant to a bona fide individual
 18 contract, or pursuant to an agreement made as a result of collective
 19 bargaining by representatives of employees, if the duties of the
 20 employee necessitate irregular hours of work, and the contract or
 21 agreement includes the following:

22 (1) Specifies a regular rate of pay of not less than the minimum
 23 hourly rate provided in subsections (c), ~~(h)~~, **(i)**, and **(j)**, and **(l)**
 24 (whichever is applicable) and compensation at not less than one
 25 and one-half (1.5) times that rate for all hours worked in excess
 26 of the maximum work week.

27 (2) Provides a weekly guaranty of pay for not more than sixty (60)
 28 hours based on the rates so specified.

29 ~~(o)~~ **(q)** No employer shall be considered to have violated subsection
 30 ~~(k)~~ **(m)** by employing any employee for a work week in excess of the
 31 maximum work week applicable to the employee under that subsection
 32 if, pursuant to an agreement or understanding arrived at between the
 33 employer and the employee before performance of the work, the
 34 amount paid to the employee for the number of hours worked by the
 35 employee in the work week in excess of the maximum work week
 36 applicable to the employee under that subsection:

37 (1) in the case of an employee employed at piece rates, is
 38 computed at piece rates not less than one and one-half (1.5) times
 39 the bona fide piece rates applicable to the same work when
 40 performed during nonovertime hours;

41 (2) in the case of an employee performing two (2) or more kinds
 42 of work for which different hourly or piece rates have been



1 established, is computed at rates not less than one and one-half
 2 (1.5) times those bona fide rates applicable to the same work
 3 when performed during nonovertime hours; or

4 (3) is computed at a rate not less than one and one-half (1.5) times
 5 the rate established by the agreement or understanding as the
 6 basic rate to be used in computing overtime compensation
 7 thereunder, provided that the rate so established shall be
 8 substantially equivalent to the average hourly earnings of the
 9 employee, exclusive of overtime premiums, in the particular work
 10 over a representative period of time;

11 and if the employee's average hourly earnings for the work week
 12 exclusive of payments described in this section are not less than the
 13 minimum hourly rate required by applicable law, and extra overtime
 14 compensation is properly computed and paid on other forms of
 15 additional pay required to be included in computing the regular rate.

16 ~~(p)~~ **(r)** Extra compensation paid as described in this section shall be
 17 creditable toward overtime compensation payable pursuant to this
 18 section.

19 ~~(q)~~ **(s)** No employer shall be considered to have violated subsection
 20 ~~(k)~~ **(m)** by employing any employee of a retail or service establishment
 21 for a work week in excess of the applicable work week specified
 22 therein, if:

23 (1) the regular rate of pay of the employee is in excess of one and
 24 one-half (1.5) times the minimum hourly rate applicable to the
 25 employee under section 2 of this chapter; and

26 (2) more than half of the employee's compensation for a
 27 representative period (not less than one (1) month) represents
 28 commissions on goods or services.

29 In determining the proportion of compensation representing
 30 commissions, all earnings resulting from the application of a bona fide
 31 commission rate shall be considered commissions on goods or services
 32 without regard to whether the computed commissions exceed the draw
 33 or guarantee.

34 ~~(r)~~ **(t)** No employer engaged in the operation of a hospital or an
 35 establishment which is an institution primarily engaged in the care of
 36 the sick, the aged, or individuals with a mental illness or defect who
 37 reside on the premises shall be considered to have violated subsection
 38 ~~(k)~~ **(m)** if, pursuant to an agreement or understanding arrived at
 39 between the employer and the employee before performance of the
 40 work, a work period of fourteen (14) consecutive days is accepted in
 41 lieu of the work week of seven (7) consecutive days for purposes of
 42 overtime computation and if, for the employee's employment in excess



1 of eight (8) hours in any workday and in excess of eighty (80) hours in
 2 that fourteen (14) day period, the employee receives compensation at
 3 a rate not less than one and one-half (1.5) times the regular rate at
 4 which the employee is employed.

5 ~~(s)~~ **(u)** No employer shall employ any employee in domestic service
 6 in one (1) or more households for a work week longer than forty (40)
 7 hours unless the employee receives compensation for that employment
 8 in accordance with subsection ~~(k)~~: **(m)**.

9 ~~(t)~~ **(v)** In the case of an employee of an employer engaged in the
 10 business of operating a street, a suburban or interurban electric railway,
 11 or a local trolley or motorbus carrier (regardless of whether or not the
 12 railway or carrier is public or private or operated for profit or not for
 13 profit), in determining the hours of employment of such an employee
 14 to which the rate prescribed by subsection ~~(k)~~ **(m)** applies, there shall
 15 be excluded the hours the employee was employed in charter activities
 16 by the employer if both of the following apply:

17 (1) The employee's employment in the charter activities was
 18 pursuant to an agreement or understanding with the employer
 19 arrived at before engaging in that employment.

20 (2) If employment in the charter activities is not part of the
 21 employee's regular employment.

22 ~~(u)~~ **(w)** Any employer may employ any employee for a period or
 23 periods of not more than ten (10) hours in the aggregate in any work
 24 week in excess of the maximum work week specified in subsection ~~(k)~~
 25 **(m)** without paying the compensation for overtime employment
 26 prescribed in subsection ~~(k)~~: **(m)**, if during that period or periods the
 27 employee is receiving remedial education that:

28 (1) is provided to employees who lack a high school diploma or
 29 educational attainment at the eighth grade level;

30 (2) is designed to provide reading and other basic skills at an
 31 eighth grade level or below; and

32 (3) does not include job specific training.

33 ~~(v)~~ **(x)** Subsection ~~(k)~~ **(m)** does not apply to an employee of a
 34 motion picture theater.

35 ~~(w)~~ **(y)** Subsection ~~(k)~~ **(m)** does not apply to an employee of a
 36 seasonal amusement or recreational establishment, an organized camp,
 37 or a religious or nonprofit educational conference center that is exempt
 38 under the federal Fair Labor Standards Act of 1938, as amended (29
 39 U.S.C. 213).

40 SECTION 3. IC 22-2-2-14 IS ADDED TO THE INDIANA CODE
 41 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 2015]: **Sec. 14. (a) This section applies to an employer that is**



1 **subject to the minimum wage provisions of the federal Fair Labor**
2 **Standards Act of 1938, as amended (29 U.S.C. 201 et seq.).**
3 **(b) Except as provided in subsection (c), if the minimum hourly**
4 **wage required under section 4 of this chapter is higher than the**
5 **minimum wage provisions of the federal Fair Labor Standards Act**
6 **of 1938, as amended (29 U.S.C. 201 et seq.), an employer shall pay**
7 **the minimum hourly wage required under section 4 of this chapter.**
8 **(c) The exception to payment of the minimum wage as required**
9 **in subsection (b) does not apply to a employee subject to 29 U.S.C.**
10 **206 (g) or 29 U.S.C. 213.**

