

SECOND REGULAR SESSION

# HOUSE BILL NO. 1453

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BUTLER.

4377H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 290.500, 290.502, 290.512, and 290.527, RSMo, and to enact in lieu thereof four new sections relating to minimum wage.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 290.500, 290.502, 290.512, and 290.527, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 290.500, 290.502, 290.512,  
3 and 290.527, to read as follows:

290.500. As used in sections 290.500 to 290.530, the following words and phrases mean:

2 (1) "Agriculture", farming and all its branches including, but not limited to, the  
3 cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting  
4 of any agricultural commodities, the raising of livestock, fish and other marine life, bees,  
5 fur-bearing animals or poultry and any practices performed by a farmer or on a farm as an  
6 incident to or in conjunction with farming operations, including preparation for market, delivery  
7 to storage or to market or to carriers for transportation to market;

8 (2) "Director", the director of the department of labor and industrial relations or his  
9 authorized representative;

10 (3) "Employee", any individual employed by an employer, except that the term  
11 "employee" shall not include:

12 (a) Any individual employed in a bona fide executive, administrative, or professional  
13 capacity;

14 (b) Any individual engaged in the activities of an educational, charitable, religious, or  
15 nonprofit organization where the employer-employee relationship does not, in fact, exist or  
16 where the services rendered to the organization are on a voluntary basis;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (c) Any individual standing in loco parentis to foster children in their care;
- 18 (d) Any individual employed for less than four months in any year in a resident or day  
19 camp for children or youth, or any individual employed by an educational conference center  
20 operated by an educational, charitable or not-for-profit organization;
- 21 (e) Any individual engaged in the activities of an educational organization where  
22 employment by the organization is in lieu of the requirement that the individual pay the cost of  
23 tuition, housing or other educational fees of the organization or where earnings of the individual  
24 employed by the organization are credited toward the payment of the cost of tuition, housing or  
25 other educational fees of the organization;
- 26 (f) Any individual employed on or about a private residence on an occasional basis for  
27 six hours or less on each occasion;
- 28 (g) Any handicapped person employed in a sheltered workshop, certified by the  
29 department of elementary and secondary education;
- 30 (h) Any person employed on a casual basis to provide baby-sitting services;
- 31 (i) Any individual employed by an employer subject to the provisions of part A of  
32 subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;
- 33 (j) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy,  
34 or in a similar occupation;
- 35 (k) Any individual whose earnings are derived in whole or in part from sales  
36 commissions and whose hours and places of employment are not substantially controlled by the  
37 employer;
- 38 (l) Any individual who is employed in any government position defined in 29 U.S.C. §§  
39 203(e)(2)(C)(i)-(ii);
- 40 (m) Any individual employed by a retail or service business whose annual gross volume  
41 sales made or business done is less than five hundred **seventy-five** thousand dollars **provided**  
42 **that starting on January 1, 2018, and on January first of successive years, this threshold**  
43 **shall be increased or decreased by the increase or decrease in the cost of living, as**  
44 **determined by the director using the methodology specified in subsection 2 of section**  
45 **290.502 with the amount of the increase or decrease determined each September thirtieth**  
46 **and rounded to the nearest five thousand dollars;**
- 47 (n) Any individual who is an offender, as defined in section 217.010, who is incarcerated  
48 in any correctional facility operated by the department of corrections, including offenders who  
49 provide labor or services on the grounds of such correctional facility pursuant to section 217.550;
- 50 (o) Any individual described by the provisions of section 29 U.S.C. 213(a)(8);
- 51 (4) "Employer", any person acting directly or indirectly in the interest of an employer in  
52 relation to an employee;

53 (5) "Learner and apprentice", any individual under 20 years of age who has not  
54 completed the required training for a particular job. In no event shall the individual be deemed  
55 a learner or apprentice in the occupation after three months of training except where the director  
56 finds, after investigation, that for the particular occupation a minimum of proficiency cannot be  
57 acquired in three months. In no case shall a person be declared to be a learner or apprentice after  
58 six months of training for a particular employer or job. Employees of an amusement or  
59 recreation business that meets the criteria set out in 29 U.S.C. § 213(a)(3) may be deemed a  
60 learner or apprentice for ninety working days. No individual shall be deemed a learner or  
61 apprentice solely for the purpose of evading the provisions of sections 290.500 to 290.530;

62 (6) "Occupation", any occupation, service, trade, business, industry, or branch or group  
63 of industries or employment or class of employment in which individuals are gainfully  
64 employed;

65 (7) "Wage", compensation due to an employee by reason of his employment, payable in  
66 legal tender of the United States or checks on banks convertible into cash on demand at full face  
67 value;

68 (8) "Person", any individual, partnership, association, corporation, business, business  
69 trust, legal representative, or any organized group of persons;

70 (9) "Man-day", any day during which an employee performs any agricultural labor for  
71 not less than one hour.

290.502. 1. Except as **provided in subsection 3 of this section and as** may be  
2 otherwise provided pursuant to sections 290.500 to 290.530, effective January 1, 2007, every  
3 employer shall pay to each employee wages at the rate of \$6.50 per hour, or wages at the same  
4 rate or rates set under the provisions of federal law as the prevailing federal minimum wage  
5 applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.

6 2. The minimum wage shall be increased or decreased on January 1, 2008, and on  
7 January [1] **first** of successive years, by the increase or decrease in the cost of living. On  
8 September 30, 2007, and on each September [30] **thirtieth** of each successive year, the director  
9 shall measure the increase or decrease in the cost of living by the percentage increase or decrease  
10 as of the preceding July over the level as of July of the immediately preceding year of the  
11 Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or successor  
12 index as published by the U.S. Department of Labor or its successor agency, with the amount of  
13 the minimum wage increase or decrease rounded to the nearest five cents.

14 **3. Beginning January 1, 2017, the minimum wage shall be increased to the rate of**  
15 **\$15.00 per hour and shall be increased or decreased on January first of successive years**  
16 **as provided in subsection 2 of this section.**

290.512. 1. No employer of any employee who receives and retains compensation in the form of gratuities in addition to wages is required to pay wages in excess of [fifty] **sixty** percent of the minimum wage rate specified in sections 290.500 to 290.530, however, total compensation for such employee shall total at least the minimum wage specified in sections 290.500 to 290.530, the difference being made up by the employer.

2. If an employee receives and retains compensation in the form of goods or services as an incident of his employment and if he is not required to exercise any discretion in order to receive the goods or services, the employer is required to pay only the difference between the fair market value of the goods and services and the minimum wage otherwise required to be paid by sections 290.500 to 290.530. The fair market value of the goods and services shall be computed on a weekly basis. The director shall provide by regulation a method of valuing the goods and services received by any employee in lieu of the wages otherwise required to be paid under the provisions of sections 290.500 to 290.530. He shall also provide by regulation a method of determining those types of goods and services that are an incident of employment the receipt of which does not require any discretion on the part of the employee.

290.527. Any employer who pays any employee less wages than the wages to which the employee is entitled under or by virtue of sections 290.500 to 290.530 shall be liable to the employee affected for the full amount of the wage rate and an additional [equal] amount **equal to twice the underpaid wages** as liquidated damages, less any amount actually paid to the employee by the employer and for costs and such reasonable attorney fees as may be allowed by the court or jury. The employee may bring any legal action necessary to collect the claim. Any agreement between the employee and the employer to work for less than the wage rate shall be no defense to the action. All actions for the collection of any deficiency in wages shall be commenced within [two] **three** years of the accrual of the cause of action.

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