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HOUSE BILL 125

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO LABOR; INCREASING THE MINIMUM WAGE; REVISING THE
MINIMUM WAGE FOR TIPPED EMPLOYEES; PROVIDING FOR AN ANNUAL
COST-OF-LIVING INCREASE IN THE STATE MINIMUM WAGE RATE;
PROVIDING LIMITATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 50-4-22 NMSA 1978 (being Laws 1955,
Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer shall pay an employee the minimum
wage rate of ~~[six dollars fifty cents (\$6.50) an hour. As of
January 1, 2009, an employer shall pay the minimum wage rate
of]~~ seven dollars fifty cents (\$7.50) an hour. As of January
1, 2017 and through December 31, 2017, an employer shall pay
the minimum wage rate of eight dollars forty cents (\$8.40) an

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1 hour. As of January 1, 2018 and through December 31, 2018, an
2 employer shall pay the minimum wage rate of nine dollars twenty
3 cents (\$9.20) an hour. As of January 1, 2019, an employer
4 shall pay the minimum wage rate of ten dollars ten cents
5 (\$10.10) an hour. As of January 1, 2017 and on January 1 of
6 each successive year, the minimum wage rate shall be increased
7 for the cost of living as provided in Subsection E of this
8 section.

9 B. An employer furnishing food, utilities, supplies
10 or housing to an employee who is engaged in agriculture may
11 deduct the reasonable value of such furnished items from any
12 wages due to the employee.

13 C. As of January 1, 2017, an employee who
14 customarily and regularly receives more than thirty dollars
15 (\$30.00) a month in tips shall be paid a minimum hourly wage
16 [of two dollars thirteen cents (\$2.13)] that is equal to forty
17 percent of the minimum wage provided in Subsection A of this
18 section. The employer may consider tips as part of wages, but
19 the tips combined with the employer's cash wage shall not equal
20 less than the minimum wage rate as provided in Subsection A of
21 this section. All tips received by such employees shall be
22 retained by the employee, except that nothing in this section
23 shall prohibit the pooling of tips among employees.

24 D. An employee shall not be required to work more
25 than forty hours in any week of seven days, unless the employee

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1 is paid one and one-half times the employee's regular hourly
2 rate of pay for all hours worked in excess of forty hours. For
3 an employee who is paid a fixed salary for fluctuating hours
4 and who is employed by an employer a majority of whose business
5 in New Mexico consists of providing investigative services to
6 the federal government, the hourly rate may be calculated in
7 accordance with the provisions of the federal Fair Labor
8 Standards Act of 1938 and the regulations pursuant to that act;
9 provided that in no case shall the hourly rate be less than the
10 federal minimum wage.

11 E. On January 1, 2017 and on January 1 of each
12 successive year, the minimum wage rate shall be increased by
13 the increase in the cost of living. The increase in the cost
14 of living shall be measured by the percentage increase as of
15 August of the immediately preceding year over the level as of
16 August of the previous year of the consumer price index for all
17 urban consumers, United States city average for all items, or
18 its successor index, as published by the United States
19 department of labor or its successor agency, with the amount of
20 the minimum wage increase rounded to the nearest multiple of
21 five cents (\$.05). The workforce solutions department shall
22 publish by November 1 of each year the adjusted minimum wage
23 rates that shall take effect the following January 1. The
24 minimum wage shall not be adjusted downward as a result of a
25 decrease in the cost of living and shall not be adjusted upward

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1 by more than four percent in any one year as a result of an
2 increase in the cost of living."

3 SECTION 2. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2016.

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