
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1044 Session of
2018

INTRODUCED BY TARTAGLIONE, HAYWOOD, FONTANA, YUDICHAK, COSTA AND
SCHWANK, FEBRUARY 9, 2018

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 9, 2018

AN ACT

1 Amending the act of January 17, 1968 (P.L.11, No.5), entitled
2 "An act establishing a fixed minimum wage and overtime rates
3 for employes, with certain exceptions; providing for minimum
4 rates for learners and apprentices; creating a Minimum Wage
5 Advisory Board and defining its powers and duties; conferring
6 powers and imposing duties upon the Department of Labor and
7 Industry; imposing duties on employers; and providing
8 penalties," further providing for definitions and for minimum
9 wages; providing for tipped employees; further providing for
10 minimum wage advisory board and for enforcement and rules and
11 regulations; providing for rules and regulations; and further
12 providing for civil actions.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 3(d) and (i) of the act of January 17,
16 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, are
17 amended and the section is amended by adding a subsection to
18 read:

19 Section 3. Definitions.--As used in this act:

20 * * *

21 (d) "Wages" mean compensation due to any employe by reason
22 of his or her employment, payable in legal tender of the United
23 States or checks on banks convertible into cash on demand at

1 full face value, subject to such deductions, charges or
2 allowances as may be permitted by regulations of the secretary
3 under section [9] 9.1.

4 "Wage" paid to any employe includes the reasonable cost, as
5 determined by the secretary, to the employer for furnishing such
6 employe with board, lodging, or other facilities, if such board,
7 lodging, or other facilities are customarily furnished by such
8 employer to his or her employes: Provided, That the cost of
9 board, lodging, or other facilities shall not be included as a
10 part of the wage paid to any employe to the extent it is
11 excluded therefrom under the terms of a bona fide collective-
12 bargaining agreement applicable to the particular employe:
13 Provided, further, That the secretary is authorized to determine
14 the fair value of such board, lodging, or other facilities for
15 defined classes of employes and in defined areas, based on
16 average cost to the employer or to groups of employers similarly
17 situated, or average value to groups of employes, or other
18 appropriate measures of fair value. Such evaluations, where
19 applicable and pertinent, shall be used in lieu of actual
20 measure of cost in determining the wage paid to any employe.

21 [In determining the hourly wage an employer is required to
22 pay a tipped employe, the amount paid such employe by his or her
23 employer shall be an amount equal to: (i) the cash wage paid the
24 employe which for the purposes of the determination shall be not
25 less than the cash wage required to be paid the employe on the
26 date immediately prior to the effective date of this
27 subparagraph; and (ii) an additional amount on account of the
28 tips received by the employe which is equal to the difference
29 between the wage specified in subparagraph (i) and the wage in
30 effect under section 4 of this act. The additional amount on

1 account of tips may not exceed the value of tips actually
2 received by the employe. The previous sentence shall not apply
3 with respect to any tipped employe unless:

4 (1) Such employe has been informed by the employer of the
5 provisions of this subsection;

6 (2) All tips received by such employe have been retained by
7 the employe and shall not be surrendered to the employer to be
8 used as wages to satisfy the requirement to pay the current
9 hourly minimum rate in effect; where the gratuity is added to
10 the charge made by the establishment, either by the management,
11 or by the customer, the gratuity shall become the property of
12 the employe; except that this subsection shall not be construed
13 to prohibit the pooling of tips among employes who customarily
14 and regularly receive tips.]

15 * * *

16 (i) ["Gratuities"] "Gratuity" or "tip" means a voluntary,
17 monetary [contributions] contribution received by an employe
18 from a guest, patron or customer for services rendered.

19 (j) "Tipped employe" means an employe who customarily and
20 regularly receives a gratuity during the course of the employe's
21 employment.

22 Section 2. Section 4(a) of the act is amended by adding
23 paragraphs to read:

24 Section 4. Minimum Wages.--Except as may otherwise be
25 provided under this act:

26 (a) Every employer shall pay to each of his or her employes
27 wages for all hours worked at a rate of not less than:

28 (1) Two dollars sixty-five cents (\$2.65) an hour upon the
29 effective date of this amendment.

30 (2) Two dollars ninety cents (\$2.90) an hour during the year

1 beginning January 1, 1979.

2 (3) Three dollars ten cents (\$3.10) an hour during the year
3 beginning January 1, 1980.

4 (4) Three dollars thirty-five cents (\$3.35) an hour after
5 December 31, 1980.

6 (5) Three dollars seventy cents (\$3.70) an hour beginning
7 February 1, 1989.

8 (6) Five dollars fifteen cents (\$5.15) an hour beginning
9 September 1, 1997.

10 (7) Six dollars twenty-five cents (\$6.25) an hour beginning
11 January 1, 2007.

12 (8) Seven dollars fifteen cents (\$7.15) an hour beginning
13 July 1, 2007.

14 (9) Twelve dollars (\$12.00) an hour upon the effective date
15 of this paragraph.

16 (10) Twelve dollars fifty cents (\$12.50) an hour beginning
17 January 1, 2019.

18 (11) Thirteen dollars (\$13.00) an hour beginning January 1,
19 2020.

20 (12) Thirteen dollars fifty cents (\$13.50) an hour beginning
21 January 1, 2021.

22 (13) Fourteen dollars (\$14.00) an hour beginning January 1,
23 2022.

24 (14) Fourteen dollars fifty cents (\$14.50) an hour beginning
25 January 1, 2023.

26 (15) Fifteen dollars (\$15.00) an hour beginning January 1,
27 2024.

28 (16) Beginning January 1, 2025, and for each succeeding
29 January 1 thereafter, the minimum wage shall be increased by an
30 annual cost-of-living adjustment calculated by the secretary

1 using the percentage change in the Consumer Price Index for All
2 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,
3 Delaware and Maryland area. In calculating the adjustment, the
4 secretary shall use the most recent twelve-month period for
5 which figures have been officially reported by the United States
6 Department of Labor, Bureau of Labor Statistics. At least sixty
7 days prior to the date the adjustment is due to take effect, the
8 percentage increase and the minimum wage amount, rounded to the
9 nearest multiple of five cents (5¢), shall be determined by the
10 secretary. The secretary shall, within ten days following the
11 determination, forward a notice of the determination to the
12 Legislative Reference Bureau for publication in the next
13 Pennsylvania Bulletin.

14 * * *

15 Section 3. The act is amended by adding a section to read:

16 Section 4.1. Tipped Employes.--(a) An employer shall pay a
17 tipped employe wages for all hours worked at a rate of not less
18 than:

19 (1) Nine dollars (\$9.00) an hour upon the effective date of
20 this section.

21 (2) Nine dollars thirty-eight cents (\$9.38) an hour
22 beginning January 1, 2019.

23 (3) Nine dollars seventy-five cents (\$9.75) an hour
24 beginning January 1, 2020.

25 (4) Ten dollars thirteen cents (\$10.13) an hour beginning
26 January 1, 2021.

27 (5) Ten dollars fifty cents (\$10.50) an hour beginning
28 January 1, 2022.

29 (6) Ten dollars eighty-eight cents (\$10.88) an hour
30 beginning January 1, 2023.

1 (7) Twelve dollars (\$12.00) an hour beginning January 1,
2 2024.

3 (8) Beginning January 1, 2025, and for each succeeding
4 January 1 thereafter, the minimum wage shall be increased by an
5 annual cost-of-living adjustment calculated by the secretary
6 using the percentage change in the Consumer Price Index for All
7 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,
8 Delaware and Maryland area. In calculating the adjustment, the
9 secretary shall use the most recent twelve-month period for
10 which figures have been officially reported by the United States
11 Department of Labor, Bureau of Labor Statistics. At least sixty
12 days prior to the date the adjustment is due to take effect, the
13 percentage increase and the minimum wage amount, rounded to the
14 nearest multiple of five cents (5¢), shall be determined by the
15 secretary. The secretary shall, within ten days following the
16 determination, forward a notice of the determination to the
17 Legislative Reference Bureau for publication in the next
18 Pennsylvania Bulletin.

19 (b) The following shall apply:

20 (1) Each tipped employe shall be informed in writing by the
21 employer, no later than twenty days after the effective date of
22 this section, that the tipped employe will be paid not less than
23 the appropriate minimum wage under subsection (a).

24 (2) Each gratuity received by the employe shall be retained
25 by the employe and shall not be surrendered or paid to the
26 employer. This paragraph shall not be deemed to prohibit the
27 pooling of gratuities among tipped employes.

28 (3) If a gratuity is added, either by the employer or
29 manager of the establishment or by the guest, patron or
30 customer, to the charge to the guest, patron or customer, the

1 gratuity shall become the property of the tipped employe and
2 shall not be used by the employer to satisfy the requirement to
3 pay the wage then in effect.

4 Section 4. Sections 6(e)(2) and 9 of the act are amended to
5 read:

6 Section 6. Minimum Wage Advisory Board.--* * *

7 (e) The board shall have the power and duty to:

8 * * *

9 (2) conduct public hearings at the request of the secretary
10 in order to develop rules and regulations in accordance with
11 section [9] 9.1 of this act, in which hearings due process of
12 law shall be observed and any person may appear and be heard or
13 file statements in support of his or her position;

14 * * *

15 Section 9. [Enforcement; Rules and Regulations.--The
16 secretary shall enforce this act. The secretary shall make and,
17 from time to time, revise regulations, with the assistance of
18 the board, when requested by the secretary, which shall be
19 deemed appropriate to carry out the purposes of this act and to
20 safeguard the minimum wage rates thereby established. Such
21 regulations may include, but are not limited to, regulations
22 defining and governing bona fide executive, administrative, or
23 professional employes and outside salespersons, learners and
24 apprentices, their number, proportion, length of learning
25 period, and other working conditions; handicapped workers; part-
26 time pay; overtime standards; bonuses; allowances for board,
27 lodging, apparel, or other facilities or services customarily
28 furnished by employers to employes; allowances for gratuities;
29 or allowances for such other special conditions or circumstances
30 which may be incidental to a particular employer-employe

1 relationship.] Enforcement.--(a) The secretary shall have the
2 authority to investigate claims of violations of this act and to
3 assess administrative penalties under section 12 of this act.

4 (b) The Attorney General and the district attorneys of the
5 several counties shall have concurrent jurisdiction to bring
6 action for a criminal violation of this act under section 12 of
7 this act. A person charged by the Attorney General does not have
8 standing to challenge the authority of the Attorney General to
9 prosecute the action. If a challenge is made, the challenge
10 shall be dismissed and no relief may be available in the courts
11 of this Commonwealth to the person making the challenge.

12 Section 5. The act is amended by adding a section to read:

13 Section 9.1. Rules and Regulations.--(1) The secretary
14 shall make and revise regulations, with the assistance of the
15 board, to carry out the purposes of this act and to safeguard
16 the payment of the wage rates established under this act.

17 (2) The regulations may include regulations defining and
18 governing any of the following:

19 (i) Bona fide executive, administrative or professional
20 employees and outside salespersons.

21 (ii) Learners and apprentices and the number, proportion,
22 length of learning period and other working conditions of
23 learners and apprentices.

24 (iii) Handicapped workers.

25 (iv) Part-time pay.

26 (v) Overtime standards.

27 (vi) Bonuses.

28 (vii) Allowances for apparel, board, lodging or other
29 facilities or services customarily furnished by employers to
30 employees.

1 (viii) Allowances for gratuities.

2 (ix) Allowances for other special conditions or
3 circumstances that may be incidental to a particular employer-
4 employe relationship.

5 Section 6. Section 13 of the act is amended to read:

6 Section 13. Civil Actions.--(a) If any employe is paid by
7 his or her employer less than the minimum wages provided by
8 section 4 of this act or by any regulation issued thereunder,
9 such [worker] employe may recover in a civil action the full
10 amount of such minimum wage less any amount actually paid to the
11 [worker] employe by the employer, together with costs and such
12 reasonable attorney's fees as may be allowed by the court, and
13 any agreement between the employer and the [worker] employe to
14 work for less than such minimum wage shall be no defense to such
15 action.

16 (b) At the request of any employe paid less than the minimum
17 wage to which such employe was entitled under this act and
18 regulations issued [thereunder] under this act, the secretary
19 may take an assignment of such wage claim, in trust for the
20 assigning [worker] employe and may bring any legal action
21 necessary to collect such claim, and the employer shall be
22 required to pay the cost and such reasonable attorney's fees as
23 may be allowed by the court.

24 Section 7. This act shall take effect as follows:

25 (1) The amendment of the definition of "wage" under
26 section 3(d) of the act and the addition of section 4.1 of
27 the act shall take effect in six months.

28 (2) The amendment of section 4(a) of the act shall take
29 effect in 60 days.

30 (3) The remainder of this act shall take effect

1 immediately.