
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 803 Session of
2023

INTRODUCED BY BAKER, COSTA, CULVER, VOGEL, REGAN, PENNYCUICK,
HUTCHINSON, ARGALL, AUMENT AND J. WARD, JUNE 23, 2023

REFERRED TO LABOR AND INDUSTRY, JUNE 23, 2023

AN ACT

1 Providing for statutory construction of Pennsylvania wage and
2 hour laws.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Statutory
7 Construction of Wage and Hour Laws Act.

8 Section 2. Declaration of purpose.

9 The General Assembly finds and declares as follows:

10 (1) Many employers in this Commonwealth are subject to
11 dual coverage under 29 U.S.C. § 201 et seq. (Fair Labor
12 Standards Act of 1938) and the act of January 17, 1968
13 (P.L.11, No.5), known as The Minimum Wage Act of 1968.

14 (2) The Congress of the United States and the United
15 States Department of Labor have a robust history of amending
16 and revising the Fair Labor Standards Act of 1938 and its
17 implementing regulations and interpretive guidance, including
18 29 U.S.C. Ch. 9 (relating to portal-to-portal pay) and 29 CFR

1 Pt. 541 (relating to defining and delimiting the exemptions
2 for executive, administrative, professional, computer and
3 outside sales employees).

4 (3) The General Assembly seeks to avoid, to the greatest
5 extent possible and consistent with the public policy of the
6 Commonwealth, the burdening of employers and employees with
7 two different sets of Federal and State standards.

8 (4) As a result of the General Assembly and the
9 Department of Labor and Industry of the Commonwealth failing
10 to update in accordance with the amendments and revisions to
11 the Fair Labor Standards Act of 1938 and its implementing
12 regulations and interpretive guidance, unintended
13 discrepancies have arisen between Federal and State law.

14 (5) The discrepancies between Federal and State law have
15 caused confusion for employers and employees and have
16 resulted in instances in which good faith compliance with
17 Federal law has nonetheless been deemed to be in violation of
18 State law.

19 Section 3. Construction of The Minimum Wage Act of 1968.

20 The following apply:

21 (1) The act of January 17, 1968 (P.L.11, No.5), known as
22 The Minimum Wage Act of 1968, shall be construed in pari
23 materia with 29 U.S.C. Ch. 9 (relating to portal-to-portal
24 pay) and sections 7 and 13 and the other provisions of 29
25 U.S.C. § 201 et seq. (Fair Labor Standards Act of 1938),
26 including regulations in effect on or after the effective
27 date of this section.

28 (2) The minimum cash wage for tipped employees shall be
29 \$2.83 per hour. If the minimum cash wage for tipped employees
30 specified in the Fair Labor Standards Act of 1938 is

1 increased above the minimum cash wage required under this
2 section, the minimum cash wage required under this section
3 shall be increased by the same amounts and effective the same
4 date as the increases under the Fair Labor Standards Act of
5 1938. The Secretary of Labor and Industry shall transmit
6 notice to the Legislative Reference Bureau for publication in
7 the next available issue of the Pennsylvania Bulletin of any
8 increase to the minimum cash wage as provided by this
9 paragraph.

10 Section 4. Construction of this act.

11 Nothing in this act shall be construed to:

12 (1) modify or repeal the act of October 9, 2008
13 (P.L.1376, No.102), known as the Prohibition of Excessive
14 Overtime in Health Care Act; or

15 (2) preempt Federal law or to otherwise excuse
16 noncompliance with any Federal law establishing a higher
17 standard than the standard established under the act of
18 January 17, 1968 (P.L.11, No.5), known as The Minimum Wage
19 Act of 1968.

20 Section 5. Repeals.

21 All acts and parts of acts are repealed insofar as they are
22 inconsistent with this act.

23 Section 6. Abrogation of regulations.

24 All regulations and parts of regulations are abrogated
25 insofar as they are inconsistent with this act.

26 Section 7. Effective date.

27 This act shall take effect in 30 days.