

HOUSE BILL 2324

By Cooper

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 2, relative to a state minimum wage.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 2, Part 1, is amended by adding the following language as a new section:

(a) Beginning July 1, 2016, every employer shall pay to each employee wages at a rate not less than ten dollars (\$10.00) per hour or the federal minimum wage, whichever is greater.

(b) For purposes of this section:

(1) "Commissioner" means the commissioner of labor and workforce development;

(2) "Employee" means a natural person who performs services for an employer for valuable consideration, and does not include a self-employed independent contractor; and

(3) "Employer" means a person or entity that employs one (1) or more employees, including the state and its political subdivisions and instrumentalities.

(c) The commissioner may:

(1) Investigate and ascertain the wages of any employee;

(2) Enter and inspect the place of business of any employer for the purpose of inspecting the payroll records of the employer;

(3) Require from any employer a full and correct statement in writing with respect to wages, names, and addresses of any of the employer's employees; and

(4) Promulgate rules and require by subpoena the attendance of witnesses, and the production of books, records, and other evidence relative to any investigation conducted by the commissioner to determine whether an employer has violated this section.

(d) A violation of this section is a Class B misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Further, any employer who willfully violates any provision of this section is subject to a civil penalty of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) at the discretion of the commissioner. If the commissioner determines that a violation of this section was unintentional, the commissioner shall issue a warning, in lieu of a penalty, for the first violation. For a second or subsequent violation, the civil penalty is applicable and may be assessed at the discretion of the commissioner. The commissioner shall have sole discretion to proceed either civilly or criminally upon any violation of this section.

(e) In addition to the penalties set out in subsection (d), any employer who violates the minimum wage requirements of this section shall be liable to the employee or employees affected for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee or employees in an action brought in a court of competent jurisdiction to recover unpaid wages under this section, the judgment shall include, in addition to the unpaid wages adjudged to be due, an additional amount equal to the wages due as damages. The court shall, in addition to any judgment awarded to any employee or employees, require the defendant to pay court costs and reasonable attorney's fees incurred by the employee or employees.

(f) An action to recover damages pursuant to subsection (d) shall be instituted within three (3) years from the date wages should have been paid.

(g) Nothing in this section shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively through representatives of

their own choosing in order to establish wages in excess of the applicable minimum wage requirement under this section.

SECTION 2. The commissioner of labor and workforce development is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. This act shall take effect July 1, 2016, the public welfare requiring it.