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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2034 Session of  
2014

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INTRODUCED BY COHEN, FRANKEL, BISHOP, B. BOYLE, BROWNLIE,  
CALTAGIRONE, D. COSTA, DeLUCA, KIRKLAND, MOLCHANY, MUNDY,  
PAINTER, PARKER, ROEBUCK AND YOUNGBLOOD, FEBRUARY 19, 2014

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 19, 2014

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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 rate of  
9 minimum wages; and providing for reporting by the department.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 3(d) of the act of January 17, 1968  
13 (P.L.11, No.5), known as The Minimum Wage Act of 1968, amended  
14 July 9, 2006 (P.L.1077, No.112), is amended to read:

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

16 \* \* \*

17 (d) "Wages" mean compensation due to any employe by reason  
18 of his or her employment, payable in legal tender of the United  
19 States or checks on banks convertible into cash on demand at  
20 full face value, subject to such deductions, charges or  
21 allowances as may be permitted by regulations of the secretary

1 under section 9.

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

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

1 sentence shall not apply with respect to any tipped employe  
2 unless:

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

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

14 \* \* \*

15 Section 2. Section 4(a) of the act, amended July 5, 2012  
16 (P.L.987, No.109), is amended to read:

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

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

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

23 (2) Two dollars ninety cents (\$2.90) an hour during the year  
24 beginning January 1, 1979.

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

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

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

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

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

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

7 (9) For a tipped employe who customarily and regularly  
8 receives tips, but who actually receives in tips an amount equal  
9 to the rate otherwise applicable under this section:

10 (i) three dollars eighty-three cents (\$3.83) an hour in cash  
11 wages beginning on the effective date of this paragraph;

12 (ii) four dollars eighty-three cents (\$4.83) an hour in cash  
13 wages beginning January 1, 2015; and

14 (iii) seventy percent (70%) of the rate otherwise applicable  
15 under this section or the Fair Labor Standards Act of 1938 (52  
16 Stat. 1060, 29 U.S.C. § 201 et seq.), whichever is greater, an  
17 hour in cash wages beginning January 1, 2016.

18 \* \* \*

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

20 Section 13.1. Reporting by Department.

21 The department shall collect information of the number of  
22 employers who violate the provisions of this act, including the  
23 amount of fines imposed for violations, and shall publish the  
24 information on the department's publicly accessible Internet  
25 website. The department shall update the information every six  
26 months.

27 Section 4. Any and all regulations are hereby abrogated to  
28 the extent of any inconsistency with this act.

29 Section 5. This act shall take effect immediately.