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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2721 Session of  
2020

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INTRODUCED BY GREEN, WILLIAMS, LEE, DALEY, GALLOWAY, YOUNGBLOOD,  
CEPHAS, SCHWEYER, HILL-EVANS, HOHENSTEIN, KINSEY, SANCHEZ,  
DELLOSO, McCLINTON, DONATUCCI, MADDEN, KORTZ, FITZGERALD,  
SHUSTERMAN, READSHAW, WARREN AND DRISCOLL, JULY 30, 2020

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JULY 30, 2020

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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 minimum  
9 wages, providing for tipped employees and repealing  
10 provisions related to preemption.

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

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

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

18 \* \* \*

19 (d) "Wages" mean compensation due to any employe by reason  
20 of his or her employment, payable in legal tender of the United  
21 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.

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

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

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

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

25 \* \* \*

26 (9) Twelve dollars (\$12.00) an hour beginning January 1,  
27 2021.

28 (10) Thirteen dollars and fifty cents (\$13.50) an hour  
29 beginning July 1, 2021.

30 (11) Fifteen dollars (\$15.00) an hour beginning January 1,

1 2022.

2 \* \* \*

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

4 Section 4.1. Tipped Employees.--An employer shall pay a  
5 tipped employe wages for all hours worked at a rate of not less  
6 than:

7 (1) Five dollars (\$5.00) an hour beginning January 1, 2021.

8 (2) Six dollars and fifty cents (\$6.50) an hour beginning  
9 July 1, 2021.

10 (3) Eight dollars (\$8.00) an hour beginning January 1, 2022.

11 Section 4. Section 14.1 of the act is repealed:

12 [Section 14.1. Preemption.--(a) Except as set forth in  
13 subsection (b), this act shall preempt and supersede any local  
14 ordinance or rule concerning the subject matter of this act.

15 (b) This section does not prohibit local regulation pursuant  
16 to an ordinance which was adopted by a municipality prior to  
17 January 1, 2006, and which remained in effect on January 1,  
18 2006.]

19 Section 5. This act shall take effect as follows:

20 (1) The amendment of the definition of "wage" under  
21 section 3(d) of the act shall take effect January 1, 2021.

22 (2) The remainder of this act shall take effect in 60  
23 days.