



Sen. Kimberly A. Lightford

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1 AMENDMENT TO SENATE BILL 68

2 AMENDMENT NO. _____. Amend Senate Bill 68 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Minimum Wage Law is amended by changing
5 Sections 3, 4, 4a, and 12 as follows:

6 (820 ILCS 105/3) (from Ch. 48, par. 1003)

7 Sec. 3. As used in this Act:

8 (a) "Director" means the Director of the Department of
9 Labor, and "Department" means the Department of Labor.

10 (b) "Wages" means compensation due to an employee by reason
11 of his employment, including allowances determined by the
12 Director in accordance with the provisions of this Act for
13 gratuities and, when furnished by the employer, for meals and
14 lodging actually used by the employee.

15 (c) "Employer" includes any individual, partnership,
16 association, corporation, limited liability company, business

1 trust, governmental or quasi-governmental body, or any person
2 or group of persons acting directly or indirectly in the
3 interest of an employer in relation to an employee, for which
4 one or more persons are gainfully employed on some day within a
5 calendar year. An employer is subject to this Act in a calendar
6 year on and after the first day in such calendar year in which
7 he employs one or more persons, and for the following calendar
8 year.

9 (d) "Employee" includes any individual permitted to work by
10 an employer in an occupation, but does not include any
11 individual permitted to work:

12 (1) (Blank). ~~For an employer employing fewer than 4~~
13 ~~employees exclusive of the employer's parent, spouse or~~
14 ~~child or other members of his immediate family.~~

15 (2) As an employee employed in agriculture or
16 aquaculture (A) if such employee is employed by an employer
17 who did not, during any calendar quarter during the
18 preceding calendar year, use more than 500 man-days of
19 agricultural or aquacultural labor, (B) if such employee is
20 the parent, spouse or child, or other member of the
21 employer's immediate family, (C) if such employee (i) is
22 employed as a hand harvest laborer and is paid on a piece
23 rate basis in an operation which has been, and is
24 customarily and generally recognized as having been, paid
25 on a piece rate basis in the region of employment, (ii)
26 commutes daily from his permanent residence to the farm on

1 which he is so employed, and (iii) has been employed in
2 agriculture less than 13 weeks during the preceding
3 calendar year, (D) if such employee (other than an employee
4 described in clause (C) of this subparagraph): (i) is 16
5 years of age or under and is employed as a hand harvest
6 laborer, is paid on a piece rate basis in an operation
7 which has been, and is customarily and generally recognized
8 as having been, paid on a piece rate basis in the region of
9 employment, (ii) is employed on the same farm as his parent
10 or person standing in the place of his parent, and (iii) is
11 paid at the same piece rate as employees over 16 are paid
12 on the same farm.

13 (3) (Blank). ~~In domestic service in or about a private~~
14 ~~home.~~

15 (4) As an outside salesman.

16 (5) As a member of a religious corporation or
17 organization.

18 (6) At an accredited Illinois college or university
19 employed by the college or university at which he is a
20 student who is covered under the provisions of the Fair
21 Labor Standards Act of 1938, as heretofore or hereafter
22 amended.

23 (7) For a motor carrier and with respect to whom the
24 U.S. Secretary of Transportation has the power to establish
25 qualifications and maximum hours of service under the
26 provisions of Title 49 U.S.C. or the State of Illinois

1 under Section 18b-105 (Title 92 of the Illinois
2 Administrative Code, Part 395 - Hours of Service of
3 Drivers) of the Illinois Vehicle Code.

4 The above exclusions from the term "employee" may be
5 further defined by regulations of the Director.

6 (e) "Occupation" means an industry, trade, business or
7 class of work in which employees are gainfully employed.

8 (f) "Gratuities" means voluntary monetary contributions to
9 an employee from a guest, patron or customer in connection with
10 services rendered.

11 (g) "Outside salesman" means an employee regularly engaged
12 in making sales or obtaining orders or contracts for services
13 where a major portion of such duties are performed away from
14 his employer's place of business.

15 (h) "Day camp" means a seasonal recreation program in
16 operation for no more than 16 weeks intermittently throughout
17 the calendar year, accommodating for profit or under
18 philanthropic or charitable auspices, 5 or more children under
19 18 years of age, not including overnight programs. The term
20 "day camp" does not include a "day care agency", "child care
21 facility" or "foster family home" as licensed by the Illinois
22 Department of Children and Family Services.

23 (Source: P.A. 94-1025, eff. 7-14-06; 95-945, eff. 1-1-09.)

24 (820 ILCS 105/4) (from Ch. 48, par. 1004)

25 Sec. 4. (a) (1) Every employer shall pay to each of his

1 employees in every occupation wages of not less than \$2.30 per
2 hour or in the case of employees under 18 years of age wages of
3 not less than \$1.95 per hour, except as provided in Sections 5
4 and 6 of this Act, and on and after January 1, 1984, every
5 employer shall pay to each of his employees in every occupation
6 wages of not less than \$2.65 per hour or in the case of
7 employees under 18 years of age wages of not less than \$2.25
8 per hour, and on and after October 1, 1984 every employer shall
9 pay to each of his employees in every occupation wages of not
10 less than \$3.00 per hour or in the case of employees under 18
11 years of age wages of not less than \$2.55 per hour, and on or
12 after July 1, 1985 every employer shall pay to each of his
13 employees in every occupation wages of not less than \$3.35 per
14 hour or in the case of employees under 18 years of age wages of
15 not less than \$2.85 per hour, and from January 1, 2004 through
16 December 31, 2004 every employer shall pay to each of his or
17 her employees who is 18 years of age or older in every
18 occupation wages of not less than \$5.50 per hour, and from
19 January 1, 2005 through June 30, 2007 every employer shall pay
20 to each of his or her employees who is 18 years of age or older
21 in every occupation wages of not less than \$6.50 per hour, and
22 from July 1, 2007 through June 30, 2008 every employer shall
23 pay to each of his or her employees who is 18 years of age or
24 older in every occupation wages of not less than \$7.50 per
25 hour, and from July 1, 2008 through June 30, 2009 every
26 employer shall pay to each of his or her employees who is 18

1 years of age or older in every occupation wages of not less
2 than \$7.75 per hour, and from July 1, 2009 through June 30,
3 2010 every employer shall pay to each of his or her employees
4 who is 18 years of age or older in every occupation wages of
5 not less than \$8.00 per hour, and on and after July 1, 2010
6 every employer shall pay to each of his or her employees who is
7 18 years of age or older in every occupation wages of not less
8 than \$8.25 per hour.

9 (2) (Blank). ~~Unless an employee's wages are reduced under~~
10 ~~Section 6, then in lieu of the rate prescribed in item (1) of~~
11 ~~this subsection (a), an employer may pay an employee who is 18~~
12 ~~years of age or older, during the first 90 consecutive calendar~~
13 ~~days after the employee is initially employed by the employer,~~
14 ~~a wage that is not more than 50¢ less than the wage prescribed~~
15 ~~in item (1) of this subsection (a); however, an employer shall~~
16 ~~pay not less than the rate prescribed in item (1) of this~~
17 ~~subsection (a) to:~~

18 ~~(A) a day or temporary laborer, as defined in Section 5~~
19 ~~of the Day and Temporary Labor Services Act, who is 18~~
20 ~~years of age or older; and~~

21 ~~(B) an employee who is 18 years of age or older and~~
22 ~~whose employment is occasional or irregular and requires~~
23 ~~not more than 90 days to complete.~~

24 (3) (Blank). ~~At no time shall the wages paid to any~~
25 ~~employee under 18 years of age be more than 50¢ less than the~~
26 ~~wage required to be paid to employees who are at least 18 years~~

1 ~~of age under item (1) of this subsection (a).~~

2 (4) Beginning on the later of July 1, 2013 or 60 days after
3 the effective date of this amendatory Act of the 98th General
4 Assembly, and on July 1st of each year thereafter, the minimum
5 wage established in subsection (a) (1) of this Section shall be
6 increased by \$0.50 plus an additional amount equal to the
7 increase in the cost of living during the preceding year, until
8 the minimum wage is restored to its historic level. Thereafter
9 the minimum wage shall be increased on July 1st of each year by
10 the increase in the cost of living during the preceding year.

11 (5) The historic level of the minimum wage shall be the
12 inflation adjusted equivalent of \$1.60 per hour in 1968, and
13 shall be calculated by adjusting that wage rate to the current
14 year's dollars based on the percentage change in the Consumer
15 Price Index for all Urban Consumers (or a successor index if
16 any) as published by the Bureau of Labor Statistics of the
17 United States Department of Labor, between January 1, 1968 and
18 the most recent month for which data is available at the time
19 the adjustment is made.

20 (6) The increase in the cost of living during the preceding
21 year shall be calculated by multiplying the current minimum
22 wage by the twelve-month percentage increase, if any, in the
23 Consumer Price Index for all Urban Consumers based on the most
24 recent 12 month period for which data is available when the
25 adjustment is made and rounding that result to the nearest 5
26 cents.

1 (7) The adjusted minimum wage shall be calculated and
2 announced by April 1 of each year, except for 2013 when the
3 adjusted minimum wage may be announced later than April 1.

4 (b) No employer shall discriminate between employees on the
5 basis of sex or mental or physical handicap, except as
6 otherwise provided in this Act by paying wages to employees at
7 a rate less than the rate at which he pays wages to employees
8 for the same or substantially similar work on jobs the
9 performance of which requires equal skill, effort, and
10 responsibility, and which are performed under similar working
11 conditions, except where such payment is made pursuant to (1) a
12 seniority system; (2) a merit system; (3) a system which
13 measures earnings by quantity or quality of production; or (4)
14 a differential based on any other factor other than sex or
15 mental or physical handicap, except as otherwise provided in
16 this Act.

17 (c) (Blank). ~~Every employer of an employee engaged in an~~
18 ~~occupation in which gratuities have customarily and usually~~
19 ~~constituted and have been recognized as part of the~~
20 ~~remuneration for hire purposes is entitled to an allowance for~~
21 ~~gratuities as part of the hourly wage rate provided in Section~~
22 ~~4, subsection (a) in an amount not to exceed 40% of the~~
23 ~~applicable minimum wage rate. The Director shall require each~~
24 ~~employer desiring an allowance for gratuities to provide~~
25 ~~substantial evidence that the amount claimed, which may not~~
26 ~~exceed 40% of the applicable minimum wage rate, was received by~~

1 ~~the employee in the period for which the claim of exemption is~~
2 ~~made, and no part thereof was returned to the employer.~~

3 (d) No camp counselor who resides on the premises of a
4 seasonal camp of an organized not-for-profit corporation shall
5 be subject to the adult minimum wage if the camp counselor (1)
6 works 40 or more hours per week, and (2) receives a total
7 weekly salary of not less than the adult minimum wage for a
8 40-hour week. If the counselor works less than 40 hours per
9 week, the counselor shall be paid the minimum hourly wage for
10 each hour worked. Every employer of a camp counselor under this
11 subsection is entitled to an allowance for meals and lodging as
12 part of the hourly wage rate provided in Section 4, subsection
13 (a), in an amount not to exceed 25% of the minimum wage rate.

14 (e) A camp counselor employed at a day camp is not subject
15 to the adult minimum wage if the camp counselor is paid a
16 stipend on a onetime or periodic basis and, if the camp
17 counselor is a minor, the minor's parent, guardian or other
18 custodian has consented in writing to the terms of payment
19 before the commencement of such employment.

20 (Source: P.A. 94-1072, eff. 7-1-07; 94-1102, eff. 7-1-07;
21 95-945, eff. 1-1-09.)

22 (820 ILCS 105/4a) (from Ch. 48, par. 1004a)

23 Sec. 4a. (1) Except as otherwise provided in this Section,
24 no employer shall employ any of his employees for a workweek of
25 more than 40 hours unless such employee receives compensation

1 for his employment in excess of the hours above specified at a
2 rate not less than 1 1/2 times the regular rate at which he is
3 employed.

4 (2) The provisions of subsection (1) of this Section are
5 not applicable to:

6 A. Any salesman or mechanic primarily engaged in
7 selling or servicing automobiles, trucks or farm
8 implements, if he is employed by a nonmanufacturing
9 establishment primarily engaged in the business of selling
10 such vehicles or implements to ultimate purchasers.

11 B. Any salesman primarily engaged in selling trailers,
12 boats, or aircraft, if he is employed by a nonmanufacturing
13 establishment primarily engaged in the business of selling
14 trailers, boats, or aircraft to ultimate purchasers.

15 C. (Blank). ~~Any employer of agricultural labor, with~~
16 ~~respect to such agricultural employment.~~

17 D. Any employee of a governmental body excluded from
18 the definition of "employee" under paragraph (e)(2)(C) of
19 Section 3 of the Federal Fair Labor Standards Act of 1938.

20 E. Any employee employed in a bona fide executive,
21 administrative or professional capacity, including any
22 radio or television announcer, news editor, or chief
23 engineer, as defined by or covered by the Federal Fair
24 Labor Standards Act of 1938 and the rules adopted under
25 that Act, as both exist on March 30, 2003, but compensated
26 at the amount of salary specified in subsections (a) and

1 (b) of Section 541.600 of Title 29 of the Code of Federal
2 Regulations as proposed in the Federal Register on March
3 31, 2003 or a greater amount of salary as may be adopted by
4 the United States Department of Labor. For bona fide
5 executive, administrative, and professional employees of
6 not-for-profit corporations, the Director may, by
7 regulation, adopt a weekly wage rate standard lower than
8 that provided for executive, administrative, and
9 professional employees covered under the Fair Labor
10 Standards Act of 1938, as now or hereafter amended.

11 F. Any commissioned employee as described in paragraph
12 (i) of Section 7 of the Federal Fair Labor Standards Act of
13 1938 and rules and regulations promulgated thereunder, as
14 now or hereafter amended.

15 G. Any employment of an employee in the stead of
16 another employee of the same employer pursuant to a
17 worktime exchange agreement between employees.

18 H. Any employee of a not-for-profit educational or
19 residential child care institution who (a) on a daily basis
20 is directly involved in educating or caring for children
21 who (1) are orphans, foster children, abused, neglected or
22 abandoned children, or are otherwise homeless children and
23 (2) reside in residential facilities of the institution and
24 (b) is compensated at an annual rate of not less than
25 \$13,000 or, if the employee resides in such facilities and
26 receives without cost board and lodging from such

1 institution, not less than \$10,000.

2 I. Any employee employed as a crew member of any
3 uninspected towing vessel, as defined by Section 2101(40)
4 of Title 46 of the United States Code, operating in any
5 navigable waters in or along the boundaries of the State of
6 Illinois.

7 (3) Any employer may employ any employee for a period or
8 periods of not more than 10 hours in the aggregate in any
9 workweek in excess of the maximum hours specified in subsection
10 (1) of this Section without paying the compensation for
11 overtime employment prescribed in subsection (1) if during that
12 period or periods the employee is receiving remedial education
13 that:

14 (a) is provided to employees who lack a high school
15 diploma or educational attainment at the eighth grade
16 level;

17 (b) is designed to provide reading and other basic
18 skills at an eighth grade level or below; and

19 (c) does not include job specific training.

20 (4) A governmental body is not in violation of subsection
21 (1) if the governmental body provides compensatory time
22 pursuant to paragraph (o) of Section 7 of the Federal Fair
23 Labor Standards Act of 1938, as now or hereafter amended, or is
24 engaged in fire protection or law enforcement activities and
25 meets the requirements of paragraph (k) of Section 7 or
26 paragraph (b)(20) of Section 13 of the Federal Fair Labor

1 Standards Act of 1938, as now or hereafter amended.

2 (Source: P.A. 92-623, eff. 7-11-02; 93-672, eff. 4-2-04.)

3 (820 ILCS 105/12) (from Ch. 48, par. 1012)

4 Sec. 12. (a) If any employee is paid by his employer less
5 than the wage to which he is entitled under the provisions of
6 this Act, the employee may recover in a civil action the amount
7 of any such underpayments, including interest thereon,
8 together with costs and such reasonable attorney's fees as may
9 be allowed by the Court, and an additional amount of damages
10 equal to twice the underpaid wages ~~and damages of 2% of the~~
11 ~~amount of any such underpayments for each month following the~~
12 ~~date of payment during which such underpayments remain unpaid.~~

13 Any agreement between the employee and the employer to work for
14 less than such wage is no defense to such action. At the
15 request of the employee or on motion of the Director of Labor,
16 the Department of Labor may make an assignment of such wage
17 claim in trust for the assigning employee and may bring any
18 legal action necessary to collect such claim, and the employer
19 shall be required to pay the costs incurred in collecting such
20 claim. Every such action shall be brought within 3 years from
21 the date of the underpayment. Such employer shall be liable to
22 the Department of Labor for up to 20% of the total employer's
23 underpayment where the employer's conduct is proven by a
24 preponderance of the evidence to be willful, repeated, or with
25 reckless disregard of this Act or any rule adopted under this

1 Act. Such employer shall be additionally liable to the employee
2 for an additional amount of damages equal to twice the
3 underpaid wages ~~damages in the amount of 2% of the amount of~~
4 ~~any such underpayments for each month following the date of~~
5 ~~payment during which such underpayments remain unpaid.~~ These
6 penalties and damages may be recovered in a civil action
7 brought by the Director of Labor in any circuit court. In any
8 such action, the Director of Labor shall be represented by the
9 Attorney General.

10 If an employee collects an additional amount of damages
11 equal to twice the underpaid wages ~~damages of 2% of the amount~~
12 ~~of underpayments~~ as a result of an action brought by the
13 Director of Labor, the employee may not also collect those
14 damages in a private action brought by the employee for the
15 same violation. If an employee collects an additional amount of
16 damages equal to twice the underpaid wages ~~damages of 2% of the~~
17 ~~amount of underpayments~~ in a private action brought by the
18 employee, the employee may not also collect those damages as a
19 result of an action brought by the Director of Labor for the
20 same violation.

21 (b) If an employee has not collected damages under
22 subsection (a) for the same violation, the Director is
23 authorized to supervise the payment of the unpaid minimum wages
24 and the unpaid overtime compensation owing to any employee or
25 employees under Sections 4 and 4a of this Act and may bring any
26 legal action necessary to recover the amount of the unpaid

1 minimum wages and unpaid overtime compensation and an ~~equal~~
2 additional amount equal to twice the unpaid wages and
3 compensation as damages, and the employer shall be required to
4 pay the costs incurred in collecting such claim. Such employer
5 shall be additionally liable to the Department of Labor for up
6 to 20% of the total employer's underpayment where the
7 employer's conduct is proven by a preponderance of the evidence
8 to be willful, repeated, or with reckless disregard of this Act
9 or any rule adopted under this Act. The action shall be brought
10 within 5 years from the date of the failure to pay the wages or
11 compensation. Any sums thus recovered by the Director on behalf
12 of an employee pursuant to this subsection shall be paid to the
13 employee or employees affected. Any sums which, more than one
14 year after being thus recovered, the Director is unable to pay
15 to an employee shall be deposited into the General Revenue
16 Fund.

17 (Source: P.A. 94-1025, eff. 7-14-06.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."