

2015 -- H 5364

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - MINIMUM WAGE - GRATUITIES

Introduced By: Representatives Regunberg, Bennett, O'Brien, McNamara, and Diaz

Date Introduced: February 11, 2015

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-12-5 of the General Laws in Chapter 28-12 entitled "Minimum
2 Wages" is hereby amended to read as follows:

3 ~~28-12-5. Employees receiving gratuities --- Incentive-based wages --- Certain~~
4 ~~employees of nonprofit entities. ---~~ Employees receiving gratuities. -- (a) Every employer shall
5 pay to each of his or her employees who, are engaged in any work or employment in which
6 gratuities have customarily and usually constituted a part of his or her weekly income, the rate as
7 provided by §§ 28-12-3 and 28-12-3.1.

8 (b) Allowance for gratuities as part of the hourly wage rate for restaurants, hotels, and
9 other industries except taxicabs and limited public motor vehicles shall be an amount equal to the
10 applicable minimum rates as provided by §§ 28-12-3 and 28-12-3.1 less two dollars and eighty-
11 nine cents (\$2.89) per hour. "Gratuities" means voluntary monetary compensation received
12 directly or indirectly by the employee for services rendered.

13 (c) Each employer desiring to deduct for gratuities as part of the minimum rates as
14 provided in §§ 28-12-3 and 28-12-3.1 wages paid to an employee shall provide substantial
15 evidence that the amount shall be set out in the formula in subsection (b) of this section; however,
16 the cash wage shall not be less than two dollars and eighty-nine cents (\$2.89) per hour; provided,
17 however, that:

18 (1) Commencing January 1, 2016, the cash wage shall not be less than four dollars and
19 fifty cents (\$4.50) per hour;

1 (2) Commencing January 1, 2017, the cash wage shall not be less than six dollars (\$6.00)
2 per hour;

3 (3) Commencing January 1, 2018, the cash wage shall not be less than seven dollars and
4 fifty cents (\$7.50) per hour;

5 (4) Commencing January 1, 2019, the cash wage shall not be less than nine dollars
6 (\$9.00) per hour; and

7 (5) Commencing January 1, 2020, the cash wage shall not be less than the minimum
8 hourly wage provided in § 28-12-3, and gratuities received by employees shall be in addition to,
9 and not a component of, the minimum hourly wage provided in § 28-12-3.

10 (d) The director of labor and training shall notify employers concerning what type of
11 proof shall be accepted as substantial evidence for the purpose of ~~this subsection~~ § 28-12-5(c).
12 Employees involved shall be entitled to a hearing on the question of the amount of deduction if
13 they so desire.

14 ~~(d) In cases where wages are figured by the employer on an incentive basis in such a~~
15 ~~manner that an employee of reasonable average ability earns at least the minimum wage~~
16 ~~established by §§ 28-12-3 and 28-12-3.1, it shall be taken that the employer has complied with~~
17 ~~this statute. It shall be of no concern to the director of labor and training how the employer arrives~~
18 ~~at its wage scale so long as it is not unreasonable in its demands on the employee.~~

19 ~~(e) Where, in the case of the employment of a full-time student who has not attained his~~
20 ~~or her nineteenth (19th) birthday engaged in the activities of a nonprofit association or~~
21 ~~corporation, whose aims and objectives are religious, educational, librarial, or community service~~
22 ~~in nature, the employer-employee relationship does exist, the employer shall pay to each such~~
23 ~~employee wages at a rate of not less than ninety percent (90%) of the minimum wage as specified~~
24 ~~in § 28-12-3. In case of any conflict between provisions of this section and those of § 28-12-3.1,~~
25 ~~the provisions of § 28-12-3.1 shall govern.~~

26 (e) Any employer who pays a minimum hourly wage sufficient to meet or exceed the
27 requirements of this section is not required to alter their wages.

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would incrementally raise the two dollar eighty-nine cents (\$2.89) per hour
2 subminimum wage for tipped workers between the years 2016 and 2020. Starting in 2020, the
3 minimum hourly wage for tipped workers would be equal to the state's regular minimum wage.

4 This act would take effect upon passage.

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