

2018 -- H 7428

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - OVERTIME WAGES

Introduced By: Representatives Donovan, Carson, Ranglin-Vassell, Tanzi, and Ajello

Date Introduced: February 02, 2018

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-12-4.3 of the General Laws in Chapter 28-12 entitled "Minimum
2 Wages" is hereby amended to read as follows:

3 **28-12-4.3. Exemptions.**

4 (a) The provisions of §§ 28-12-4.1 and 28-12-4.2 do not apply to the following
5 employees:

6 (1) Any employee of a summer camp when it is open no more than six (6) months of the
7 year.

8 (2) Police officers, firefighters, and rescue service personnel employed by the cities and
9 towns.

10 (3) Employees of the state or political subdivision of the state who may elect through a
11 collective bargaining agreement, memorandum of understanding, or any other agreement between
12 the employer and representatives of the employees, or if the employees are not represented by an
13 exclusive bargaining agent, through an agreement or understanding arrived at between the
14 employer and the employee prior to the performance of work, to receive compensatory time off
15 for hours worked in excess of forty (40) in a week. The compensatory hours shall at least equal
16 one and one half (1 1/2) times the hours worked over forty (40) in a week. If compensation is paid
17 to an employee for accrued compensatory time, the compensation shall be paid at the regular rate
18 earned by the employee at the time of payment. At the time of termination, unused accrued
19 compensatory time shall be paid at a rate not less than:

1 (i) The average regular rate received by the employee during the last three (3) years of the
2 employee's employment, or

3 (ii) The final regular rate received by the employee, whichever is higher.

4 (4) Any employee employed in a bona fide executive, administrative, or professional
5 capacity, as defined by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.,
6 compensated for services on a salary basis of not less than ~~two hundred dollars (\$200)~~ one
7 thousand thirty-six dollars (\$1,036) per week, and beginning on January 1, 2020, and every year
8 thereafter, on an updated salary basis of not less than the fortieth percentile of weekly earnings of
9 full-time nonhourly workers in the Northeast Census Region in the second quarter of the year
10 preceding the update as published by the Bureau of Labor Statistics.

11 (5) Any employee as defined in subparagraph (a)(4) of this section unless the wages of
12 the employee, if computed on an hourly basis, would violate the applicable minimum wage law.

13 (6) Any salaried employee of a nonprofit national voluntary health agency who elects to
14 receive compensatory time off for hours worked in excess of forty (40) hours per week.

15 (7) Any employee, including drivers, driver's helpers, mechanics, and loaders of any
16 motor carrier, including private carriers, with respect to whom the U.S. secretary of transportation
17 has power to establish qualifications and maximum hours of service pursuant to the provisions of
18 49 U.S.C. § 3102.

19 (8) Any employee who is a salesperson, parts person, or mechanic primarily engaged in
20 the sale and/or servicing of automobiles, trucks or farm implements, and is employed by a non-
21 manufacturing employer primarily engaged in the business of selling vehicles or farm implements
22 to ultimate purchasers, to the extent that the employers are exempt under the federal Wage-Hour
23 and Equal Pay Act, 29 U.S.C. § 201 et seq. and 29 U.S.C. § 213(b)(10); provided, that the
24 employee's weekly, bi-weekly, or monthly actual earnings exceed an amount equal to the
25 employee's basic contractual hourly rate of pay times the number of hours actually worked plus
26 the employee's basic contractual hourly rate of pay times one-half (1/2) the number of hours
27 actually worked in excess of forty (40) hours per week.

28 (9) Any employee employed in agriculture; however, this exemption applies to all
29 agricultural enterprises that produce greenhouse crops, fruit and vegetable crops, herbaceous
30 crops, sod crops, viticulture, viniculture, floriculture, feed for livestock, forestry, dairy farming,
31 aquaculture, the raising of livestock, furbearing animals, poultry and eggs, bees and honey,
32 mushrooms, and nursery stock. This exemption also applies to nursery workers.

33 (10) Any employee of an air carrier subject to the provisions of title 45 U.S.C. § 181 et
34 seq., of the Railway Labor Act when the hours worked by such employee in excess of forty (40)

1 in a work week are not required by the air carrier, but are arranged through a voluntary agreement
2 among employees to trade scheduled work hours.

3 (b) Nothing in this section exempts any employee who under applicable federal law is
4 entitled to overtime pay or benefits related to overtime pay.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would exempt certain executive, administrative, and professional employees
2 from overtime pay if their weekly wages exceed one thousand thirty-six dollars (\$1,036), an
3 increase from the current two hundred dollars (\$200).

4 This act would take effect upon passage.

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