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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - WAGES

Introduced By: Representatives Ranglin-Vassell, Donovan, Walsh, Barros, and Diaz

Date Introduced: April 04, 2019

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-12-3 and 28-12-5 of the General Laws in Chapter 28-12  
2 entitled "Minimum Wages" are hereby amended to read as follows:

3 **28-12-3. Minimum wages.**

4 (a) Every employer shall pay to each of his or her employees: commencing July 1, 1999,  
5 at least the minimum wage of five dollars and sixty-five cents (\$5.65) per hour. Commencing  
6 September 1, 2000, the minimum wage is six dollars and fifteen cents (\$6.15) per hour.

7 (b) Commencing January 1, 2004, the minimum wage is six dollars and seventy-five  
8 cents (\$6.75) per hour.

9 (c) Commencing March 1, 2006, the minimum wage is seven dollars and ten cents  
10 (\$7.10) per hour.

11 (d) Commencing January 1, 2007, the minimum wage is seven dollars and forty cents  
12 (\$7.40) per hour.

13 (e) Commencing January 1, 2013, the minimum wage is seven dollars and seventy-five  
14 cents (\$7.75) per hour.

15 (f) Commencing January 1, 2014, the minimum wage is eight dollars (\$8.00) per hour.

16 (g) Commencing January 1, 2015, the minimum wage is nine dollars (\$9.00) per hour.

17 (h) Commencing January 1, 2016, the minimum wage is nine dollars and sixty cents  
18 (\$9.60) per hour.

19 (i) Commencing January 1, 2018, the minimum wage is ten dollars and ten cents (\$10.10)

1 per hour.

2 (j) Commencing January 1, 2019, the minimum wage is ten dollars and fifty cents  
3 (\$10.50) per hour.

4 (k) Commencing January 1, 2020, the minimum wage is eleven dollars (\$11.00) per hour.

5 (l) Commencing January 1, 2021, the minimum wage is twelve dollars (\$12.00) per hour.

6 (m) Commencing January 1, 2022, the minimum wage is thirteen dollars (\$13.00) per  
7 hour.

8 (n) Commencing January 1, 2023, the minimum wage is fourteen dollars (\$14.00) per  
9 hour.

10 (o) Commencing January 1, 2024, the minimum wage is fifteen dollars (\$15.00) per hour.

11 (p) Commencing on January 1, 2025, and on each January 1 thereafter, the minimum  
12 wage under this section shall be increased by the percentage increase, if any, in the cost of living.

13 The increase in the cost of living shall be measured by the percentage increase, if any, as of  
14 August of the previous year over the level, as of August of the year preceding, of the Consumer  
15 Price Index for Urban Wage Earners and Clerical Workers (CPI-W), or its successor index as  
16 published by the United States Department of Labor or its successor agency, with the amount of  
17 the minimum hourly wage increase rounded up to the nearest multiple of five cents (\$.05).

18 **28-12-5. Employees receiving gratuities.**

19 (a) Every employer shall pay to each of his or her employees who are engaged in any  
20 work or employment in which gratuities have customarily and usually constituted a part of his or  
21 her weekly income, the rate as provided by §§ 28-12-3 and 28-12-3.1.

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

27 (c) Each employer desiring to deduct for gratuities as part of the minimum rates as  
28 provided in §§ 28-12-3 and 28-12-3.1 wages paid to an employee shall provide substantial  
29 evidence that the amount shall be set out in the formula in subsection (b) of this section; however,  
30 the cash wage shall not be less than two dollars and eighty-nine cents (\$2.89) per hour; provided,  
31 however, that commencing January 1, 2016, the cash wage shall increase by fifty cents (\$.50) to  
32 an amount not less than three dollars and thirty-nine cents (\$3.39) per hour; provided further, that  
33 commencing January 1, 2017, the cash wage shall increase by fifty cents (\$.50) to an amount not  
34 less than three dollars and eighty-nine cents (\$3.89) per hour; provided further, that commencing

1 January 1, 2020, the cash wage shall increase by one dollar and eleven cents (\$1.11) to an amount  
2 not less than five dollars (\$5.00) per hour; provided further, that commencing January 1, 2021,  
3 the cash wage shall increase by one dollar and twenty-five cents (\$1.25) to an amount not less  
4 than six dollars and twenty-five cents (\$6.25) per hour; provided further, that commencing  
5 January 1, 2022, the cash wage shall increase by one dollar and twenty-five cents (\$1.25) to an  
6 amount not less than seven dollars and fifty cents (\$7.50) per hour; provided further, that  
7 commencing January 1, 2023, the cash wage shall increase by one dollar and twenty-five cents  
8 (\$1.25) to an amount not less than eight dollars and seventy-five cents (\$8.75) per hour; provided  
9 further, that commencing January 1, 2024, the cash wage shall increase by one dollar and twenty-  
10 five cents (\$1.25) to an amount not less than ten dollars (\$10.00) per hour; provided further, that  
11 commencing January 1, 2025, the cash wage shall increase by one dollar and twenty-five cents  
12 (\$1.25) to an amount not less than eleven dollars and twenty-five cents (\$11.25) per hour;  
13 provided further, that commencing January 1, 2026, the cash wage shall increase by one dollar  
14 and twenty-five cents (\$1.25) to an amount not less twelve dollars and fifty cents (\$12.50) per  
15 hour; provided further, that commencing January 1, 2027, the cash wage shall increase by one  
16 dollar and twenty-five cents (\$1.25) to an amount not less than thirteen dollars and seventy-five  
17 cents (\$13.75) per hour; provided further, that commencing January 1, 2028, the cash wage shall  
18 increase by one dollar and twenty-five cents (\$1.25) to an amount not less than fifteen dollars  
19 (\$15.00) per hour. Commencing January 1, 2029, the cash wage shall be an amount not less than  
20 the applicable minimum hourly rates as provided by §§ 28-12-3 and 28-12-3.1.

21 (d) The director of labor and training shall notify employers concerning what type of  
22 proof shall be accepted as substantial evidence for the purpose of this subsection. Employees  
23 involved shall be entitled to a hearing on the question of the amount of deduction if they so  
24 desire.

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

30 (f) Where, in the case of the employment of a full-time student who has not attained his  
31 or her nineteenth (19th) birthday engaged in the activities of a nonprofit association or  
32 corporation, whose aims and objectives are religious, educational, librarial, or community service  
33 in nature, the employer-employee relationship does exist, the employer shall pay to each such  
34 employee wages at a rate of not less than ninety percent (90%) of the minimum wage as specified

1 in § 28-12-3. In case of any conflict between provisions of this section and those of § 28-12-3.1,  
2 the provisions of § 28-12-3.1 shall govern.

3 SECTION 2. Sections 28-14-19 and 28-14-19.2 of the General Laws in Chapter 28-14  
4 entitled "Payment of Wages" are hereby amended to read as follows:

5 **28-14-19. Enforcement powers and duties of director of labor and training.**

6 (a) It shall be the duty of the director to ~~insure~~ ensure compliance with the provisions of  
7 this chapter 28-14 and 28-12. The director or his or her designee may investigate any violations  
8 thereof, institute or cause to be instituted actions for the collection of wages and institute action  
9 for penalties or other relief as provided for within and pursuant to those chapters. The director or  
10 his or her authorized representatives are empowered to hold hearings and he or she shall  
11 cooperate with any employee in the enforcement of a claim against his or her employer in any  
12 case whenever, in his or her opinion, the claim is just and valid.

13 (b) Upon receipt of a complaint or conducting an inspection under applicable law, the  
14 director or his or her appropriate departmental designee is authorized to investigate to determine  
15 compliance with the chapters 28-12 and/or 28-14.

16 (c) With respect to all complaints deemed just and valid, the director or his or her  
17 designee shall order a hearing thereon at a time and place to be specified, and shall give notice  
18 thereof, together with a copy of the complaint or the purpose thereof, or a statement of the facts  
19 disclosed upon investigation, which notice shall be served personally or by mail on any person,  
20 business, corporation, or entity of any kind affected thereby. The hearing shall be scheduled  
21 within thirty (30) days of ~~service of a formal complaint~~ determination that the claim is just and  
22 valid as provided herein. The person, business, corporation, or entity shall have an opportunity to  
23 be heard in respect to the matters complained of at the time and place specified in the notice. The  
24 hearing shall be conducted by the director or his or her designee. The hearing officer in the  
25 hearing shall be deemed to be acting in a judicial capacity, and shall have the right to issue  
26 subpoenas, administer oaths, and examine witnesses. The enforcement of a subpoena issued  
27 under this section shall be regulated by Rhode Island civil practice law and rules. The hearing  
28 shall be expeditiously conducted and upon such hearing the hearing officer shall determine the  
29 issues raised thereon and shall make a determination and enter an order within thirty (30) days of  
30 the close of the hearing, and forthwith serve a copy of the order, with a notice of the filing  
31 thereof, upon the parties to the proceeding, personally or by mail. The order shall dismiss the  
32 complaint or direct payment of any wages and/or benefits found to be due and/or award such  
33 other appropriate relief or penalties authorized under chapter 28-12 and/or 28-14, and the order  
34 may direct payment of reasonable attorneys' fees and costs to the complaining party. Interest at

1 the rate of twelve percent (12%) per annum shall be awarded in the order from the date of the  
2 nonpayment to the date of payment.

3 (d) The order shall also require payment of a further sum as a civil penalty in an amount  
4 up to ~~two (2)~~ three (3) times the total wages and/or benefits found to be due, exclusive of interest,  
5 which shall be shared equally between the department and the aggrieved party. In determining the  
6 amount of any penalty to impose, the director or his or her designee shall consider the size of the  
7 employer's business, the good faith of the employer, the gravity of the violation, the previous  
8 violations and whether or not the violation was an innocent mistake or willful.

9 (e) The director may institute any action to recover unpaid wages or other compensation  
10 or obtain relief as provided under this section with or without the consent of the employee or  
11 employees affected.

12 (f) No agreement between the employee and employer to work for less than the  
13 applicable wage and/or benefit rate or to otherwise work under and/or conditions in violation of  
14 applicable law is a defense to an action brought pursuant to this section.

15 (g) The director shall notify the contractors' registration board of any order issued or any  
16 determination hereunder that an employer has violated chapters 28-12, 28-14 and/or 37-13. The  
17 director shall notify the tax administrator of any determination hereunder that may affect liability  
18 for an employer's payment of wages and/or payroll taxes.

19 **28-14-19.2. Private right of action to collect wages or benefits and for equitable**  
20 **relief.**

21 (a) Any employee or former employee, or any organization representing such an  
22 employee or former employee aggrieved by the failure to pay wages and/or benefits or  
23 misclassification in violation of chapters 28-12 and/or 28-14 may file a civil action in any court of  
24 competent jurisdiction to obtain relief. An aggrieved party shall be entitled to recover any unpaid  
25 wages and/or benefits, compensatory damages, and liquidated damages in an amount up to two  
26 (2) times the amount of unpaid wages and/or benefits owed, as well as an award of appropriate  
27 equitable relief, including reinstatement of employment, fringe benefits and seniority rights, and  
28 reasonable attorneys' fees and costs, and/or such other appropriate relief or penalties authorized  
29 under chapters 28-12 and/or 28-14. In determining the amount of any penalty imposed under this  
30 section, consideration shall be given to the size of the employer's business, the good faith of the  
31 employer, the gravity of the violation, the history of previous violations, and whether or not the  
32 violation was an innocent mistake or willful. Any unpaid fringe benefit contributions owed  
33 pursuant to this section in any form shall be paid to the appropriate benefit fund: however, in the  
34 absence of an appropriate fund, the benefit shall be paid directly to the aggrieved employee.

1 (b) An action instituted pursuant to this section may be brought by one or more  
2 employees or former employees individually and/or on behalf of other employees similarly  
3 situated.

4 (c) No agreement between the employee and employer to work for less than the  
5 applicable wage and/or benefit rate or to otherwise work under terms and/or conditions in  
6 violation of applicable law is a defense to an action brought pursuant to this section.

7 (d) An employer's responsibility and liability hereunder is solely to the employer's own  
8 employees.

9 (e) ~~A civil action filed under this section may be instituted instead of, but not in addition~~  
10 ~~to, the director of labor and training enforcement procedures authorized by the above referenced~~  
11 ~~chapters, provided the civil action is filed prior to the date the director of labor and training issues~~  
12 ~~notice of an administrative hearing.~~

13 (f) The filing of a civil action under this section shall not preclude the director of labor  
14 and training from investigating the matter and/or referring the matter to the attorney general,  
15 contractors ' registration board and/or the tax administrator.

16 (g) Any claim hereunder shall be forever barred unless commenced within ~~three (3)~~ six  
17 (6) years after the cause of action accrued.

18 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO LABOR AND LABOR RELATIONS - WAGES

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1           This act would gradually increase the hourly minimum wage from nine dollars and sixty  
2 cents (\$9.60) to fifteen dollars (\$15.00) by January 1, 2024, as well as gradually increasing the  
3 hourly minimum wage for employees receiving gratuities from three dollars and eighty-nine cents  
4 (\$3.89) an hour to fifteen dollars (\$15.00) an hour by January 1, 2028. Any increases subsequent  
5 to those dates would be dependent on any increase of the Consumer Price Index for Urban Wage  
6 Earners and Clerical Workers (CPI-W). Awards for non-payment would increase from two (2) to  
7 three (3) times the amount unpaid and the statute of limitations would increase from three (3) to  
8 six (6) years.

9           This act would take effect upon passage.

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