

2021 -- H 5939

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WAGES

Introduced By: Representatives Ranglin-Vassell, Henries, Shekarchi, Bennett, Ajello,
Fogarty, Cassar, and Barros

Date Introduced: February 25, 2021

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 entitled
2 "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 cents
8 (\$6.75) per hour.

9 (c) Commencing March 1, 2006, the minimum wage is seven dollars and ten cents (\$7.10)
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 (\$9.60)
18 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 (\$10.50)
3 per hour.

4 (k) Commencing October 1, 2020, the minimum wage is eleven dollars and fifty cents
5 (\$11.50) per hour.

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

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

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

10 (o) Commencing on January 1, 2025, and on each January 1 thereafter, the minimum wage
11 under this section shall be increased by the percentage increase, if any, in the cost of living. The
12 increase in the cost of living shall be measured by the percentage increase, if any, as of August of
13 the previous year over the level, as of August the year preceding, of the Consumer Price Index for
14 Urban Wage Earners and Clerical Workers (CPI-W), or its successor index as published by the
15 United States Department of Labor or its successor agency, with the amount of the minimum hourly
16 wage increase rounded up to the nearest multiple of five cents (\$.05).

17 **28-12-5. Employees receiving gratuities.**

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

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

26 (c) Each employer desiring to deduct for gratuities as part of the minimum rates as provided
27 in §§ 28-12-3 and 28-12-3.1 wages paid to an employee shall provide substantial evidence that the
28 amount shall be set out in the formula in subsection (b) of this section; however, the cash wage
29 shall not be less than two dollars and eighty-nine cents (\$2.89) per hour; provided, however, that
30 commencing January 1, 2016, the cash wage shall increase by fifty cents (\$.50) to an amount not
31 less than three dollars and thirty-nine cents (\$3.39) per hour; provided further, that commencing
32 January 1, 2017, the cash wage shall increase by fifty cents (\$.50) to an amount not less than three
33 dollars and eighty-nine cents (\$3.89) per hour; provided further, that commencing July 1, 2021,
34 the cash wage shall increase by one dollar and eleven cents (\$1.11) to an amount not less than five

1 dollars (\$5.00) per hour; provided further, that commencing January 1, 2022, the cash wage shall
2 increase by one dollar and fifty cents (\$1.50) to an amount not less than six dollars and fifty cents
3 (\$6.50) per hour; provided further, that commencing on January 1, 2023, the cash wage shall
4 increase by one dollar and fifty cents (\$1.50) to an amount not less than eight dollars (\$8.00) per
5 hour; provided further, that commencing January 1, 2024, the cash wage shall increase by one
6 dollar and fifty cents (\$1.50) to an amount not less than nine dollars and fifty cents (\$9.50) per
7 hour; provided further, that commencing January 1, 2025, the cash wage shall increase by one
8 dollar and fifty cents (\$1.50) to an amount not less than eleven dollars (\$11.00) per hour; provided
9 further, that commencing January 1, 2026, the cash wage shall increase by one dollar and fifty
10 cents (\$1.50) to an amount not less than twelve dollars and fifty cents (\$12.50) per hour; provided
11 further, that commencing on January 1, 2027, the cash wage shall increase by one dollar and fifty
12 cents (\$1.50) to an amount not less than fourteen dollars (\$14.00) per hour. Commencing on
13 January 1, 2028, the cash wage shall be an amount not less than the applicable minimum hourly
14 rates as provided by §§ 28-12-3 and 28-12-3.1.

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

18 (e) In cases where wages are figured by the employer on an incentive basis in such a manner
19 that an employee of reasonable average ability earns at least the minimum wage established by §§
20 28-12-3 and 28-12-3.1, it shall be taken that the employer has complied with this statute. It shall be
21 of no concern to the director of labor and training how the employer arrives at its wage scale so
22 long as it is not unreasonable in its demands on the employee.

23 (f) Where, in the case of the employment of a full-time student who has not attained his or
24 her nineteenth (19th) birthday engaged in the activities of a nonprofit association or corporation,
25 whose aims and objectives are religious, educational, librarial, or community service in nature, the
26 employer-employee relationship does exist, the employer shall pay to each such employee wages
27 at a rate of not less than ninety percent (90%) of the minimum wage as specified in § 28-12-3. In
28 case of any conflict between provisions of this section and those of § 28-12-3.1, the provisions of
29 § 28-12-3.1 shall govern.

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

32 **28-14-19. Enforcement powers and duties of director of labor and training.**

33 (a) It shall be the duty of the director to insure compliance with the provisions of this
34 chapter and chapter 12 of this title. The director or his or her designee may investigate any

1 violations thereof, institute or cause to be instituted actions for the collection of wages and institute
2 action for penalties or other relief as provided for within and pursuant to those chapters. The
3 director or his or her authorized representatives are empowered to hold hearings and he or she shall
4 cooperate with any employee in the enforcement of a claim against his or her employer in any case
5 whenever, in his or her opinion, the claim is just and valid.

6 (b) Upon receipt of a complaint or conducting an inspection under applicable law, the
7 director or his or her appropriate departmental designee is authorized to investigate to determine
8 compliance with chapter 12 of this title and/or this chapter.

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

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

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

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

7 (g) The director shall notify the contractors' registration board of any order issued or any
8 determination hereunder that an employer has violated chapter 12 of this title, this chapter and/or
9 chapter 13 of title 37. The director shall notify the tax administrator of any determination hereunder
10 that may affect liability for an employer's payment of wages and/or payroll taxes.

11 **28-14-19.2. Private right of action to collect wages or benefits and for equitable relief.**

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

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

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

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

33 (e) ~~A civil action filed under this section may be instituted instead of, but not in addition~~
34 ~~to, the director of labor and training enforcement procedures authorized by the above referenced~~

1 ~~chapters, provided the civil action is filed prior to the date the director of labor and training issues~~
2 ~~notice of an administrative hearing.~~

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

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

8 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

1 This act would increase the minimum wage by using an annual fixed amount, increasing it
2 one dollar per hour in 2022, 2023 and 2024, until January 1, 2025, where it reaches to fifteen dollars
3 per hour, then raised annually thereafter by using the Consumer Price Index for Urban Wage
4 Earners and Clerical Workers (CPI-W). It also raises the hourly minimum wage for employees
5 receiving gratuities by using a similar scale.

6 This act would take effect upon passage.

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