

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 200

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H.P. 140

House of Representatives, January 30, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative McHENRY of Madawaska.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act Concerning the State Minimum Wage.

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Be it enacted by the People of the State of Maine as follows:

26 MRSA §664, as amended by PL 1987, c. 738, §§1 and 2, is repealed and the following enacted in its place:

§664. Compliance required

By reason of the declaration of policy set forth in section 661 and for the protection of industry and business and for the enhancement of public interest, health, safety and welfare, an employer may not employ any employee at a wage rate of less than the state minimum wage. The state minimum wage is \$4.25 per hour, except as otherwise provided in this subchapter.

1. Adjustments. Except as provided in this subsection, on the first day of January of each year, beginning in 1993, the minimum wage under this section is adjusted by a percentage increase or decrease equal to the percentage change in the state average weekly wage for the 2nd previous calendar year, as computed by the Bureau of Employment Security.

A. The Bureau of Labor Standards shall calculate and announce the adjustment to be made under this subsection for the succeeding year as soon as the necessary data is available.

B. An adjustment made under this subsection may not exceed 5% in any single year.

C. Any adjustment made under this subsection must be rounded off to the nearest 5¢ increment, except that if this requirement would result in an adjustment exceeding 5%, the adjustment must be rounded off to the next lower 5¢ increment.

D. If the highest federal minimum wage is increased in excess of the state minimum wage established under this section, the state minimum wage is increased to the same amount, effective on the same date as the increase in the highest federal minimum wage. This increased state minimum wage rate is subject to annual adjustment under this subsection except that no adjustment may be made in the year immediately following an increase under this paragraph.

2. Service employees. In determining the wage of a service employee, the amount paid that employee by the employer is deemed to be increased on account of tips by an amount determined by the employer, but not by an amount greater than the minimum hourly wage established under this section, minus \$2.07 per hour, except that:

A. If an employee, either personally or acting through a representative, shows to the satisfaction of the director

2 that the actual amount of tips received by the employee was  
4 less than the amount determined by the employer as the  
6 amount by which the wage paid the employee was deemed to be  
8 increased, the amount paid that employee by the employer is  
10 deemed to have been increased by the lesser amount; or

12 B. If the tipping credit established under federal law is  
14 changed to an amount that results in an actual minimum paid  
16 wage in excess of \$2.07 per hour for service employees, the  
18 credit applied under this subsection is changed to the same  
20 amount, effective on the same date as the change in the  
22 federal tipping credit.

24 3. Students under 19 years of age. An employer may pay an  
26 employee who is under 19 years of age and regularly enrolled in  
28 an educational institution or on vacation from an educational  
30 institution a rate lower than that otherwise required in this  
32 section but not less than 75% of the state minimum wage rate  
34 required for other employees in the same occupation.

36 4. Overtime work. An employer may not require any employee  
38 to work more than 40 hours in one week, unless 1 1/2 times the  
40 regular hourly rate is paid for all work in excess of 40 hours in  
42 any one week. This subsection does not apply to:

44 A. Mariners;

46 B. The canning, processing, preserving, freezing, drying,  
48 marketing, storing, packing for shipment or distribution of:

1 (1) Herring as sardines;

2 (2) Perishable foods;

3 (3) Agricultural produce;

4 (4) Meat products; or

5 (5) Fish products;

6 C. The canning of other perishable goods;

7 D. Hotels or motels;

8 E. Restaurants and other eating establishments;

9 F. Public employees; or

10 G. Automobile mechanics or automobile sales representatives.

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**STATEMENT OF FACT**

This bill provides for the state minimum wage to be adjusted annually. No adjustment is made to this level in 1992 since the increased wage rate will have just taken effect in the prior year. Beginning on January 1, 1993, the minimum wage rate is adjusted annually by a percentage increase or decrease equal to the percentage change in the state average weekly wage for the 2nd previous year. This is the most recent year for which a full calendar year's data will be available. This adjustment is subject to 3 limitations. First, the adjustment may not exceed 5% in any single year. Second, the adjustment must be rounded off to the nearest 5¢ increment. Finally, if the federal minimum wage is increased in the future to a rate above the state level, the state minimum wage is increased to the same amount and the succeeding year's adjustment is not made since the new federal wage establishes a new "base rate" from which future adjustments will be calculated.

The bill eliminates the need for periodic legislative adjustments to be made to the minimum wage since the adjustments are made automatically.