

AN ACT raising the minimum wage and supplementing and amending P. L.1966, c.113.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to read as follows:

2. As used in this act:

(a) "Commissioner" means the Commissioner of Labor and Workforce Development.

(b) "Director" means the director in charge of the bureau referred to in section 3 of this act.

(c) "Wage board" means a board created as provided in section 10 of this act.

(d) "Wages" means any moneys due an employee from an employer for services rendered or made available by the employee to the employer as a result of their employment relationship including commissions, bonus and piecework compensation and including [any gratuities received by an employee for services rendered for an employer or a customer of an employer and] the fair value of any food or lodgings supplied by an employer to an employee, and, until December 31, 2018, "wages" includes any gratuities received by an employee for services rendered for an employer or a customer of an employer. The commissioner may, by regulation, establish the average value of gratuities received by an employee in any occupation and the fair value of food and lodging provided to employees in any occupation, which average values shall be acceptable for the purposes of determining compliance with this act in the absence of evidence of the actual value of such items.

(e) "Regular hourly wage" means the amount that an employee is regularly paid for each hour of work as determined by dividing the total hours of work during the week into the employee's total earnings for the week, exclusive of overtime premium pay.

(f) "Employ" includes to suffer or to permit to work.

(g) "Employer" includes any individual, partnership, association, corporation or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(h) "Employee" includes any individual employed by an employer.

(i) "Occupation" means any occupation, service, trade, business, industry or branch or group of industries or employment or class of employment in which employees are gainfully employed.

(j) "Minimum fair wage order" means a wage order promulgated pursuant to this act.

(k) "Fair wage" means a wage fairly and reasonably commensurate with the value of the service or class of service

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

rendered and sufficient to meet the minimum cost of living necessary for health.

(l) "Oppressive and unreasonable wage" means a wage which is both less than the fair and reasonable value of the service rendered and less than sufficient to meet the minimum cost of living necessary for health.

(m) "Limousine" means a motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. "Limousine" shall not include taxicabs, hotel or airport shuttles and buses, buses employed solely in transporting school children or teachers to and from school, vehicles owned and operated directly or indirectly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

(n) "Seasonal employment" means employment with an employer for which, during the immediately previous calendar year, not less than two thirds of the employer's gross receipts were received in a continuous period of not more than thirteen weeks.

(o) "Small employer" means any employer who employed less than ten employees for every working day during each of a majority of the calendar workweeks in the current calendar year and during a majority of the calendar workweeks in the preceding calendar year.

(cf: P.L.2001, c.416, s.2)

2. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to read as follows:

5. [Every] a. Except as provided in subsections c., d., and f. of this section, each employer shall pay to each of his employees wages at a rate of not less than [\$5.05 per hour as of April 1, 1992 and, after January 1, 1999 the federal minimum hourly wage rate set by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour, and as of October 1, 2006, \$7.15 per hour for 40 hours of working time in any week and 1 1/2 times such employee's regular hourly wage for each hour of working time in excess of 40 hours in any week, except this overtime rate shall not include any individual employed in a bona fide executive, administrative, or professional capacity or, if] \$8.85 per hour as of January 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent year, the minimum wage shall be increased by any increase in the consumer price index

for all urban wage earners and clerical workers (CPI-W) as calculated by the federal government for the 12 months prior to the September 30 preceding that January 1, except that, any of the following rates shall apply if they exceed the rate determined in accordance with the applicable increase in the CPI-W for any year: on July 1, 2019, the minimum wage shall be \$9.50 per hour; on January 1, 2020, the minimum wage shall be \$11.00 per hour; on January 1, 2021, the minimum wage shall be \$11.55 per hour; and on January 1 of each year from 2022 to 2024, inclusive, the minimum wage shall be increased from the rate of the preceding year by \$1.15 per hour. If the federal minimum hourly wage rate set by section 6 of the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a level higher than the State minimum wage rate set by this section, then the State minimum wage rate shall be increased to the level of the federal minimum wage rate and subsequent increases based on increases in the CPI-W pursuant to this section shall be applied to the higher minimum wage rate. If an applicable wage order has been issued by the commissioner under section 17 (C.34:11-56a16) of this act, the employer shall also pay not less than the wages prescribed in said order. The wage rates fixed in this section shall not be applicable to part-time employees primarily engaged in the care and tending of children in the home of the employer, to persons under the age of 18 not possessing a special vocational school graduate permit issued pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as salesmen of motor vehicles, or to persons employed as outside salesmen as such terms shall be defined and delimited in regulations adopted by the commissioner, or to persons employed in a volunteer capacity and receiving only incidental benefits at a county or other agricultural fair by a nonprofit or religious corporation or a nonprofit or religious association which conducts or participates in that fair.

b. [The provisions of this section for the payment to an] An employer shall also pay each employee [of] not less than 1 1/2 times such employee's regular hourly rate for each hour of working time in excess of 40 hours in any week, except that this overtime rate shall not apply; to any individual employed in a bona fide executive, administrative, or professional capacity; or to employees engaged to labor on a farm or employed in a hotel; or to an employee of a common carrier of passengers by motor bus; or to a limousine driver who is an employee of an employer engaged in the business of operating limousines; or to employees engaged in labor relative to the raising or care of livestock.

c. Employees engaged on a piece-rate or regular hourly rate basis to labor on a farm shall be paid for each day worked not less than the applicable minimum hourly wage rate multiplied by the total number of hours worked. Employees of a small employer, employees less than 18 years of age, employees engaged on a piece-rate or regular hourly rate basis to labor on a farm, and employees

who are engaged in seasonal employment, except for employees who customarily and regularly receives gratuities or tips and are therefore subject to the provisions of subsection d. of this section, shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent year, that minimum wage rate shall be increased by any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) as calculated by the federal government for the 12 months prior to the September 30 preceding that January 1, except that, any of the following rates shall apply if they exceed when the rate determined in accordance with the applicable increase in the CPI-W for any year: on January 1, 2020, the minimum wage shall be \$10.10 per hour; on January 1, 2022, the minimum wage shall be \$10.35 per hour; on January 1, 2023, the minimum wage shall be \$10.70 per hour; on January 1, 2024, the minimum wage shall be \$11.10 per hour; on January 1, 2025, the minimum wage shall be \$11.70 per hour; on January 1, 2026, the minimum wage shall be \$12.45 per hour; on January 1, 2027, the minimum wage shall be \$13.20 per hour; on January 1, 2028, the minimum wage shall be \$14.10 per hour; and on January 1, 2029, the minimum wage shall be \$15.00 per hour. If the federal minimum hourly wage rate set by section 6 of the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a level higher than the State minimum wage rate set by this section, then the State minimum wage rate shall be increased to the level of the federal minimum wage rate and subsequent increases based on increases in the CPI-W pursuant to this section shall be applied to the higher minimum wage rate.

Full-time students may be employed by the college or university at which they are enrolled at not less than 85% of the effective minimum wage rate.

d. With respect to an employee who customarily and regularly receives gratuities or tips, every employer is entitled to a credit of for the gratuities or tips received by the employee against the hourly wage rate that would otherwise be paid to the employee pursuant to subsection a. of this section of the following amounts: after December 31, 2018 and before July 1, 2019, \$6.72 per hour; after June 30, 2019 and before January 1, 2020, \$7.37 per hour; during calendar year 2020, \$7.87 per hour; during calendar year 2021, \$7.42 per hour; during calendar year 2022, \$7.57 per hour; during calendar year 2023, \$8.72 per hour; during calendar year 2024 and subsequent calendar years, \$9.87 per hour.

e. Notwithstanding the provisions of this section to the contrary, every trucking industry employer shall pay to all drivers, helpers, loaders and mechanics for whom the Secretary of Transportation may prescribe maximum hours of work for the safe operation of vehicles, pursuant to section 31502(b) of the federal Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times the minimum wage required pursuant to this

section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking industry shall be paid no less than the minimum wage rate as provided in this section and N.J.A.C. 12:56-3.1. As used in this section, "trucking industry employer" means any business or establishment primarily operating for the purpose of conveying property from one place to another by road or highway, including the storage and warehousing of goods and property. Such an employer shall also be subject to the jurisdiction of the Secretary of Transportation pursuant to the federal Motor Carrier Act, 49 U.S.C.s.31501 et seq., whose employees are exempt under section 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29 U.S.C. s.213(b)(1), which provides an exemption to employees regulated by section 207 of the federal "Fair Labor Standards Act of 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49 U.S.C. s.501 et al.

f. Commencing on January 1, 2020, a training wage of not less than 90% of the minimum wage rate otherwise set pursuant to subsection a. of this section may be paid to an employee who is enrolled in an established employer on-the-job or other training program which meets standards set by regulations adopted by the commissioner. The period during which an employer may pay the training wage to the employee shall be the first 80 hours of work after hiring the employee in employment in an occupation in which the employee has no previous similar or related experience. An employer shall not utilize any employee paid the training wage in a manner which causes, induces, encourages or assists any displacement or partial displacement of any currently employed worker, including any previous recipient of the training wage, by reducing hours of a currently employed worker, replacing a current or laid off employee with a trainee, or by relocating operations resulting in a loss of employment at a previous workplace, or in a manner which replaces, supplants, competes with or duplicates any approved apprenticeship program. An employer who pays an employee a training wage shall make a good faith effort to continue to employ the employee after the period of the training wage expires and shall not hire the employee at the training wage unless there is a reasonable expectation that there will be regular employment, paying at or above the effective minimum wage, for the trainee upon the successful completion of the period of the training wage. If the commissioner determines that an employer has made repeated, knowing violations of the provisions of this subsection regarding the payment of a training wage, the commissioner shall suspend the employer's right to pay a training wage for a period set pursuant to regulations adopted by the commissioner, but not less than three years.

g. The provisions of this section shall not be construed as prohibiting any political subdivision of the State from adopting an ordinance, resolution, regulation or rule, or entering into any agreement, establishing any standard for vendors, contractors and

subcontractors of the subdivision regarding wage rates or overtime compensation which is higher than the standards provided for in this section, and no provision of any other State or federal law establishing a minimum standard regarding wages or other terms and conditions of employment shall be construed as preventing a political subdivision of the State from adopting an ordinance, resolution, regulation or rule, or entering into any agreement, establishing a standard for vendors, contractors and subcontractors of the subdivision which is higher than the State or federal law or which otherwise provides greater protections or rights to employees of the vendors, contractors and subcontractors of the subdivision, unless the State or federal law expressly prohibits the subdivision from adopting the ordinance, resolution, regulation or rule, or entering into the agreement.

(cf: P.L.2005, c.70, s.1)

3. (New section) a. There is established, in but not of the Department of Labor and Workforce Development, the “Task Force on Wages and State Benefits.” The task force shall consist of ten members, including Commissioners of Health, Human Services, Education, Community Affairs, and Labor and Workforce Development, and the State Treasurer, or their designees, all who shall serve *ex officio*, and four public members appointed by the Governor with the advice and consent of the Senate as follows: one person nominated by an organization which represents the interests of the business community in this State, one person nominated by the New Jersey State AFL-CIO, and two persons nominated by organizations representing the interests of low-income individuals, and other disadvantaged individuals, who rely of services and benefits provided or administered by the State or its instrumentalities. Public members shall be appointed for four-year terms and may be re-appointed for any number of terms. Any public member of the task force may be removed from office by the Governor, for cause, upon notice and opportunity to be heard. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member shall continue to serve upon the expiration of his term until a successor is appointed and qualified, unless the member is removed by the Governor.

b. Action may be taken by the task force by an affirmative vote of a majority of its members and a majority of the task force shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the task force. Members of the task force shall serve without compensation, but may be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the task force within the limits of funds appropriated or otherwise made available for that purpose.

c. The purpose of the task force is to evaluate how changes in required minimum wage levels pursuant to by P.L. , c. (C.)(now pending before the Legislature as this act) may affect the eligibility of low-income individuals, and other disadvantaged individuals, for a variety of services and benefits provided or administered by the State or its instrumentalities, including, but not limited to, health, human service, childcare, education, housing and tax benefits, and how the combination of changes in minimum wage and eligibility standards may impact the living standards of the individuals and their families. The Task Force shall produce annual reports of its findings, which shall include any recommendations the task force deems appropriate for adjustments in eligibility standards for the benefits, changes in benefit subsidy rates, and other relevant reforms, to ensure that the combination of minimum wage increases and State services and benefits are coordinated effectively so as to further advance the overall goal of raising the living standards of working families.

d. In furtherance of its evaluation, the task force may hold public meetings or hearings within the State and call to its assistance and avail itself of the services of the employees of any other State department, board, or agency which the task force determines possesses relevant data, analytical and professional expertise or other resources which may assist the task force in discharging its duties under this act. Each department, board, or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the task force and to furnish such information and assistance as is necessary to accomplish the purposes of this act.

e. The task force shall issues its first annual report to the Governor and Legislature not later than September 30, 2019, and make the report available to the public by means including the posting of the report on the web sites of all of the State agencies represented on the task force. Each subsequent annual report shall be issued and made available to the public not later than September 30 of the respective year and shall include a review of any administrative and legislative actions taken in response to recommendations of previous reports of the task force, together with an evaluation of the effectiveness of the actions in facilitating the overall goal of raising the living standards of working families, and any further recommendation deemed appropriate by the task force.

4. The Commissioner of Labor and Workforce Development shall, not later than September 30, 2024, issue and post on the Department of Labor and Workforce Development website a report which evaluates the impacts on employers and employees of:

a. the increases of the minimum wage provided in calendar years 2020 through 2023 for employees engaged on a piece-rate or

regular hourly rate basis to labor on a farm pursuant to subsection c. of section 5 of P.L 1966, c.113 (C.34:11-56a4); and

b. the credits provided in calendar years 2019 through 2023 to employers for gratuities and tips pursuant to subsection d. of section 5 of P.L 1966, c.113 (C.34:11-56a4).

5. This act shall take effect immediately.

STATEMENT

This bill amends and supplements the “New Jersey State Wage and Hour Law”, P.L.1966, c.113 (C.34:11-56a et seq.), to incorporate into that law the provisions of Article I, paragraph 23 of the State Constitution approved by ballot initiative in 2013 to increase the State minimum wage; and provide further increases in the minimum wage beyond what is required by the Constitution.

The bill incorporates into the minimum wage law the constitutional provision which has resulted in the increase of the minimum wage rate to \$8.85 per hour on January 1, 2018, and which increases the rate on January 1 of each subsequent year by any increase which occurs in the consumer price index for all urban wage earners and clerical workers (CPI-W) during the 12 months prior to the September 30 before that January 1. The bill also incorporates into the law the provision of the Constitution that whenever the federal minimum wage exceeds the State minimum wage, the federal minimum wage will be adopted as the State minimum wage and the increases based on increases in the CPI-W will be applied to the federal minimum wage rate, except that if in a subsequent year the rate set by this bill exceeds the federal rate, the rate shall again be the rate set by the bill.

Finally, the bill provides for certain increases in the State minimum wage which may be greater than the increases resulting from the provisions of the Constitution. The bill provides that, except for certain workers specified by the bill, the minimum wage rate will be increased to \$9.50 per hour on July 1, 2019, to \$11.00 per hour on January 1, 2020, and then increased by \$1.15 per hour on January 1 of each year from 2021 to 2024, reaching a level of \$15.00 per hour in 2024.

The exceptions indicated by the bill are:

1. That for employees of any employer with less than ten employees, for employees under 18 years of age for farm laborers, and for employees working in seasonal employment, other than employees whose employers are provided credits for tips by the bill, the minimum wage rate will be increased to \$10.10 per hour on January 1, 2020, to \$10.35 per hour on January 1, 2022, to \$10.70 per hour on January 1, 2023, to \$11.10 per hour on January 1, 2024, to \$11.70 per hour on January 1, 2025, to \$12.45 per hour on January 1, 2026, to \$13.20 per hour on January 1, 2027, to \$14.10

per hour on January 1, 2028, reaching a level of \$15.00 per hour on January 1, 2029; and

2. That with respect to tipped workers every employer who employs a worker who customarily and regularly receives gratuities or tips will be entitled to a credit for the tips received by the worker against the hourly minimum wage rate paid to the worker in the following amounts: after December 31, 2018 and before July 1, 2019, \$6.72 per hour; after June 30, 2019 and before January 1, 2020, \$7.37 per hour; during calendar year 2020, \$7.87 per hour; during calendar year 2021, \$7.42 per hour; during calendar year 2022, \$7.57 per hour; during calendar year 2023, \$8.72 per hour; during calendar year 2024 and subsequent calendar year, \$9.87 per hour.

3. That, commencing January 1, 2020, a training wage of not less than 90% of the minimum wage may be paid to an employee enrolled in a qualified training program. The training wage may be paid during first 80 hours after hiring the employee for employment in an occupation in which the employee has no previous similar or related experience. The employer may not utilize employees paid the training wage in a way that contributes to any displacement of current employees or existing apprenticeship programs. The employer is required to make a good faith effort to continue to employ the employee after the training wage expires and may not hire an employee at the training wage without a reasonable expectation of subsequent regular employment.

Minimum wage increases provided by the Constitution based on CPI-W increases will continue to be applied in all cases in any year in which the increase set by the bill are less than the CPI-W increase, including all years after 2024.

The bill defines “seasonal employment” as employment for which, during the previous calendar year, not less than two thirds of the employer’s gross receipts were received in a continuous period of not more than thirteen weeks, and “small employer” as an employer who employed less than ten employees for every working day during a majority of the calendar workweeks in the current calendar year and the preceding calendar year.

The bill also creates a “Task Force on Wages and State Benefits” charged with evaluating how changes in minimum wage levels may affect the eligibility for a variety of State services and benefits, and how the combination of changes in minimum wage and eligibility standards may impact living standards. The task force is directed to produce annual reports of its findings, including any recommendations for adjustments in eligibility standards for the benefits, changes in benefit subsidy rates, and other relevant reforms, to ensure that the combination of minimum wage increases and State services and benefits are coordinated effectively so as to further advance the overall goal of raising the living standards of working families.

Finally, the bill directs the Commissioner of Labor and Workforce Development to issue, by September 30, 2024, a report evaluating the impacts on employers and employees of the bill's increases of the minimum wage rates for farm laborers and the bill's credits provided to employers for tips received by their employees.

Raises, over time, hourly minimum wage to \$15.00.