



HOUSE BILL No. 5874

May 9, 1996, Introduced by Rep. Jaye and referred to the Committee on Human Resources and Labor.

A bill to amend section 4a of Act No. 154 of the Public Acts of 1964, entitled as amended "Minimum wage law of 1964," being section 408.384a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4a of Act No. 154 of the Public Acts of
2 1964, being section 408.384a of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 4a. (1) Except as otherwise provided in this section,
5 FOR EMPLOYMENT IN A WORKWEEK IN EXCESS OF 40 HOURS, an employee
6 shall receive compensation at not less than 1-1/2 times the regu-
7 lar rate at which the employee is employed. ~~for employment in a~~
8 ~~workweek in excess of 40 hours.~~

9 ~~(2) The state or a political subdivision, agency, or~~
10 ~~instrumentality of the state shall not be considered to have~~

~~1 violated subsection (1) with respect to the employment of an
2 employee in fire protection activities or an employee in law
3 enforcement activities, including security personnel in correc-
4 tional institutions, if any of the following applies:~~

~~5 (a) In a work period of 28 consecutive days, the employee
6 receives for tours of duty, which in the aggregate exceed 216
7 hours, compensation for those hours in excess of 216 at a rate
8 not less than 1 1/2 times the regular rate at which the employee
9 is employed, which rate shall be not less than the statutory min-
10 imum hourly rate.~~

~~11 (b) In the case of that employee to whom a work period of at
12 least 7 but less than 28 days applies, in the employee's work
13 period the employee receives for tours of duty, which in the
14 aggregate exceed a number of hours which bears the same ratio to
15 the number of consecutive days in the employee's work period as
16 216 bears to 28 days, compensation for those hours in excess of
17 216 at a rate not less than 1 1/2 times the regular rate at which
18 the employee is employed, which rate shall be not less than the
19 statutory minimum hourly rate.~~

~~20 (c) If an employee engaged in fire protection activities
21 would receive overtime payments under this act solely as a result
22 of that employee's trading of time with another employee pursuant
23 to a voluntary trading time arrangement, overtime, if any, shall
24 be paid to employees who participate in the trading of time as if
25 the time trade had not occurred. As used in this subdivision,
26 "trading time arrangement" means a practice under which employees
27 of a fire department voluntarily substitute for one another to~~

1 ~~allow an employee to attend to personal matters, which practice~~
 2 ~~is neither for the convenience of the employer nor because of the~~
 3 ~~employer's operations.~~

4 (2) ~~(3)~~ The state or a political subdivision, agency, or
 5 instrumentality of the state engaged in the operation of a hospi-
 6 tal or an establishment which is an institution primarily engaged
 7 in the care of the sick, the aged, or the mentally ill or defec-
 8 tive who reside on the premises ~~shall not be considered to have~~
 9 ~~violated~~ DOES NOT VIOLATE subsection (1) if BOTH OF THE FOLLOW-
 10 ING CONDITIONS ARE MET: ~~pursuant-~~

11 (A) PURSUANT to a written agreement or written employment
 12 policy ~~arrived at~~ ESTABLISHED between the employer and the
 13 employee before performance of the work, a work period of 14 con-
 14 secutive days is accepted instead of the workweek of 7 consec-
 15 tive days for purposes of overtime computation. ~~, and if, for~~

16 (B) FOR the employee's employment in excess of 8 hours in a
 17 workday and in excess of 80 hours in the 14-day period, the
 18 employee receives compensation at a rate of 1-1/2 times the regu-
 19 lar rate ~~, which rate shall be not less than the statutory mini-~~
 20 ~~mum hourly rate,~~ at which the employee is employed. THE REGULAR
 21 RATE AT WHICH THE EMPLOYEE IS EMPLOYED SHALL NOT BE LESS THAN THE
 22 STATUTORY MINIMUM HOURLY RATE.

23 (3) ~~(4)~~ Subsections (1) ~~,~~ AND (2) ~~,~~ and (3) ~~shall~~ DO
 24 not apply to any of the following:

25 (a) An employee employed in a bona fide executive, adminis-
 26 trative, or professional capacity, including an employee employed

1 in the capacity of academic administrative personnel or teacher
2 in an elementary or secondary school. ~~, except that an~~

3 (B) AN employee of a retail or service establishment ~~shall~~
4 ~~not be excluded from the definition of employee employed in a~~
5 ~~bona fide executive or administrative capacity because of the~~
6 ~~number of hours in the employee's workweek which the employee~~
7 ~~devotes to~~ WHOSE EMPLOYMENT activities ~~not~~ ARE directly or
8 closely related to the performance of executive or administrative
9 activities ~~, if less than 40%~~ FOR 60% OR MORE of the employee's
10 hours in the workweek. ~~are devoted to those activities.~~

11 (C) ~~(b)~~ An individual who holds a public elective office.

12 (D) ~~(c)~~ A political appointee ~~of a person holding public~~
13 ~~elective office or a political appointee of a public body~~ WHO IS
14 NOT COVERED BY A CIVIL SERVICE SYSTEM.

15 (E) ~~(d)~~ An employee employed by an ~~establishment which is~~
16 ~~an~~ amusement or recreational establishment, if the establishment
17 does not operate for more than 7 months in a calendar year.

18 (F) ~~(e)~~ An employee employed in agriculture, including
19 farming in all its branches, which ~~among other things~~ includes,
20 BUT IS NOT LIMITED TO, THE FOLLOWING: ~~the~~

21 (i) THE cultivation and tillage of ~~the~~ soil. ~~, dairying,~~
22 ~~the~~

23 (ii) DAIRYING.

24 (iii) THE production, cultivation, growing, and harvesting
25 of agricultural or horticultural commodities. ~~, the~~

26 (iv) THE raising of livestock, bees, fur-bearing animals, or
27 poultry. ~~, and a~~

1 (v) A practice, including forestry or lumbering operations,
2 performed by a farmer or on a farm as an incident to or in con-
3 junction with farming operations, including preparation for
4 market, delivery to storage, or delivery to market or to a car-
5 rier for transportation to market, or the processing or preserv-
6 ing of perishable farm products.

7 (G) ~~(f)~~ An employee who is not subject to the minimum
8 hourly wage provisions of this act.

9 (4) ~~(5)~~ The director of THE DEPARTMENT OF labor shall
10 promulgate rules ~~pursuant to~~ IN ACCORDANCE WITH THE ADMINISTRA-
11 TIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of
12 1969, ~~as amended,~~ being sections 24.201 to ~~24.315~~ 24.328 of
13 the Michigan Compiled Laws, to define the terms used in subsec-
14 tion ~~(4)~~ (3). ~~Subsection (4)(c) shall not apply to a person~~
15 ~~covered by a civil service system.~~

16 (5) ~~(6)~~ For purposes of administration and enforcement, an
17 amount owing to an employee which is withheld in violation of
18 this section ~~shall be considered to be~~ IS AN unpaid minimum
19 ~~wages~~ WAGE under this act.

20 ~~(7) The legislature shall annually appropriate from the~~
21 ~~general fund to each political subdivision affected by subsection~~
22 ~~(2) an amount equal to the difference in direct labor costs~~
23 ~~before and after the effective date of subsection (2) which~~
24 ~~arises from any change in existing law resulting from the enact-~~
25 ~~ment of subsection (2) and incurred by each such political~~
26 ~~subdivision.~~