
By: **Senators Miller, Conway, Currie, Della, Frosh, Garagiola, Giannetti,
Gladden, Green, Hughes, Kelley, McFadden, ~~and Stone Stone,~~
Middleton, Exum, Klausmeier, and Teitelbaum**

Introduced and read first time: January 19, 2005

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 1, 2005

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment - Minimum Wage - Increase**

3 FOR the purpose of requiring certain employers to pay certain employees at least the
4 greater of certain wage amounts; authorizing an increase in a certain tip credit
5 used by certain employers to compensate certain employees; authorizing certain
6 employers to reduce by a certain amount the minimum wage paid to employees
7 under certain circumstances; providing for the termination of certain provisions
8 of this Act; and generally relating to the payment of wages.

9 BY repealing and reenacting, with amendments,
10 Article - Labor and Employment
11 Section ~~3-413~~ 3-413 and 3-419
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Labor and Employment
16 Section 3-413
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2004 Supplement)
19 (As enacted by Section 1 of this Act)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Labor and Employment**

2 3-413.

3 (A) Except as provided in SUBSECTION (B) OF THIS SECTION AND § 3-414 of
4 this subtitle, each employer shall pay:

5 (1) to each employee who is subject to both the federal Act and this
6 subtitle, at least ~~THE~~ **GREATER OF:**

7 (I) the minimum wage for that employee under the federal Act; OR

8 (II) A WAGE THAT EQUALS A RATE OF \$6.15 PER HOUR; and

9 (2) each other employee who is subject to this subtitle, at least ~~THE~~
10 **GREATER OF:**

11 (I) THE GREATER OF:

12 ~~(i)~~ 1. the highest minimum wage under the federal Act; OR

13 ~~(ii)~~ 2. A WAGE THAT EQUALS A RATE OF \$6.15 PER HOUR; or

14 ~~(iii)~~ ~~(iii)~~ a training wage under regulations that the Commissioner
15 adopts that include the conditions and limitations authorized under the federal Fair
16 Labor Standards Amendments of 1989.

17 (B) AN EMPLOYER THAT PROVIDES HEALTH INSURANCE TO AN EMPLOYEE
18 MAY:

19 (1) CERTIFY TO THE COMMISSIONER THAT THE EMPLOYER IS
20 PROVIDING HEALTH INSURANCE TO THE EMPLOYEE; AND

21 (2) REDUCE THE WAGE PAID TO THE EMPLOYEE UNDER SUBSECTION (A)
22 OF THIS SECTION BY ALL OR PART OF THE HOURLY COST OF THE EMPLOYER'S SHARE
23 OF THE PREMIUM FOR THE EMPLOYEE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
25 read as follows:

26 **Article - Labor and Employment**

27 3-419.

28 (a) (1) This section applies to each employee who:

29 (i) is engaged in an occupation in which the employee customarily
30 and regularly receives more than \$30 each month in tips;

31 (ii) has been informed by the employer about the provisions of this
32 section; and

1 (iii) has kept all of the tips that the employee received.

2 (2) Notwithstanding paragraph (1)(iii) of this subsection, this section
3 does not prohibit the pooling of tips.

4 (b) Subject to the limitations in this section, an employer may include, as part
5 of the wage of an employee to whom this section applies:

6 (1) an amount that the employer sets to represent the tips of the
7 employee; or

8 (2) if the employee or representative of the employee satisfies the
9 Commissioner that the employee received a lesser amount in tips, the lesser amount.

10 (c) The tip credit amount that the employer may include under subsection (b)
11 of this section may not exceed [\$2.77] 50% OF THE MINIMUM WAGE ESTABLISHED
12 UNDER § 3-413 OF THIS SUBTITLE FOR THE EMPLOYEE.

13 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article - Labor and Employment**

16 3-413.

17 [(a)] Except as provided in [subsection (b) of this section and] § 3-414 of this
18 subtitle, each employer shall pay:

19 (1) to each employee who is subject to both the federal Act and this
20 subtitle, at least the greater of:

21 (i) the minimum wage for that employee under the federal Act; or

22 (ii) a wage that equals a rate of \$6.15 per hour; and

23 (2) each other employee who is subject to this subtitle, at least:

24 (i) the greater of:

25 1. the highest minimum wage under the federal Act; or

26 2. a wage that equals a rate of \$6.15 per hour; or

27 (ii) a training wage under regulations that the Commissioner
28 adopts that include the conditions and limitations authorized under the federal Fair
29 Labor Standards Amendments of 1989.

30 [(b)] An employer that provides health insurance to an employee may:

31 (1) certify to the Commissioner that the employer is providing health
32 insurance to the employee; and

1 (2) reduce the wage paid to the employee under subsection (a) of this
2 section by all or part of the hourly cost of the employer's share of the premium for the
3 employee.]

4 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
5 take effect October 1, 2005. It shall remain effective for a period of 2 years and, at the
6 end of September 30, 2007, with no further action required by the General Assembly,
7 Section 1 of this Act shall be abrogated and of no further force and effect.

8 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
9 take effect on the taking effect of the termination provision specified in Section 4 of
10 this Act.

11 ~~SECTION 6.~~ SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
12 Section 5 of this Act, this Act shall take effect October 1, 2005.