

# HOUSE BILL 1249

K3  
HB 1235/08 – ECM

9lr2335  
CF SB 831

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By: **Delegates Feldman, Ali, Barkley, Barnes, Benson, Braveboy, Bronrott, Burns, Cane, Carr, Carter, Dumais, Frush, Gaines, Glenn, Gutierrez, Guzzone, Harrison, Haynes, Healey, Hecht, Heller, Hixson, Holmes, Howard, Hubbard, Hucker, Ivey, Jones, Kaiser, Kirk, Krysiak, Kullen, Lee, Levi, Love, Manno, McHale, Mizeur, Montgomery, Niemann, Pena-Melnyk, Proctor, Ramirez, Rice, Rosenberg, Ross, Schuler, Stukes, Tarrant, Taylor, F. Turner, V. Turner, Valderrama, Vallario, Waldstreicher, and Weir**

Introduced and read first time: February 13, 2009  
Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Wage and Hour Law – Payment of Overtime – Exemptions**

3 FOR the purpose of exempting certain employers from the requirement to pay a  
4 certain overtime wage; altering the manner in which a wage for overtime is  
5 computed by employers for employees; and generally relating to overtime pay.

6 BY repealing and reenacting, without amendments,  
7 Article – Labor and Employment  
8 Section 3–401 and 3–415(a)  
9 Annotated Code of Maryland  
10 (2008 Replacement Volume)

11 BY repealing and reenacting, with amendments,  
12 Article – Labor and Employment  
13 Section 3–415(c) and 3–420  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume)

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

18 **Article – Labor and Employment**

19 3–401.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

2 (b) "Employer" includes a person who acts directly or indirectly in the  
3 interest of another employer with an employee.

4 (c) "Federal Act" means the federal Fair Labor Standards Act of 1938.

5 (d) "Wage" means all compensation that is due to an employee for  
6 employment.

7 3-415.

8 (a) Except as otherwise provided in this section, each employer shall pay an  
9 overtime wage of at least 1.5 times the usual hourly wage, computed in accordance  
10 with § 3-420 of this subtitle.

11 (c) This section does not apply to an employer with respect to:

12 (1) an employee for whom the United States Secretary of  
13 Transportation may set qualifications and maximum hours of service under 49 U.S.C.  
14 § 3102;

15 (2) a mechanic, partsperson, or salesperson who primarily sells or  
16 services automobiles, farm equipment, trailers, or trucks, if the employer is engaged  
17 primarily in selling those vehicles to ultimate buyers and is not a manufacturer; [or]

18 (3) a driver if the employer is engaged in the business of operating  
19 taxicabs;

20 (4) **AN EMPLOYEE WHO RECEIVES AN OVERTIME WAGE EQUAL TO,**  
21 **OR GREATER THAN, THE WAGE REQUIRED UNDER SUBSECTION (A) OF THIS**  
22 **SECTION, IF THE WAGE IS SUBJECT TO A WRITTEN AGREEMENT WITH THE**  
23 **EMPLOYER;**

24 (5) **AN EMPLOYEE OF AN EMPLOYER WHO IS LICENSED OR**  
25 **APPROVED TO PROVIDE SERVICES BY:**

26 (I) **THE DEVELOPMENTAL DISABILITIES ADMINISTRATION**  
27 **OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

28 (II) **THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

29 (III) **THE DEPARTMENT OF HUMAN RESOURCES; OR**

30 (IV) **THE DEPARTMENT OF JUVENILE SERVICES; OR**

1                   **(6) AN EMPLOYEE OF AN EMPLOYER THAT HAS LESS THAN 50**  
2 **EMPLOYEES.**

3 3–420.

4           (a) Except as otherwise provided in this section, an employer shall compute  
5 the wage for overtime under § 3–415 of this subtitle on the basis of **THE GREATER OF:**

6                   **(1) DURING 1 WORKWEEK, EACH HOUR OVER 8 HOURS THAT AN**  
7 **EMPLOYEE WORKS DURING A WORKDAY; AND**

8                   **(2) DURING 1 WORKWEEK,** each hour over 40 hours that an employee  
9 works [during 1 workweek].

10           **(B) THE WAGE FOR OVERTIME PAY AUTHORIZED UNDER SUBSECTION**  
11 **(A)(1) OF THIS SECTION DOES NOT APPLY TO THE EMPLOYER IF AN EMPLOYEE,**  
12 **UNDER A WRITTEN AGREEMENT WITH AN EMPLOYER, AGREES TO WORK MORE**  
13 **THAN 8 HOURS PER DAY, FOR A TOTAL OF:**

14                   **(1) 40 HOURS IN LESS THAN 5 CALENDAR DAYS DURING A**  
15 **SCHEDULED WORKWEEK; OR**

16                   **(2) 80 HOURS IN LESS THAN 10 CALENDAR DAYS DURING 2**  
17 **SCHEDULED WORKWEEKS.**

18           **[(b)] (C)** Notwithstanding § 3–415(b)(8) of this subtitle, an employer that is  
19 not a not for profit organization and is a concert promoter, legitimate theater, music  
20 festival, music pavilion, or theatrical show shall pay overtime for a craft or trade  
21 employee as required in subsection (a) of this section.

22           **[(c)] (D)** The wage for overtime may be computed on the basis of each hour  
23 over 60 hours that an employee works during 1 workweek for an employee who:

24                   (1) is engaged in agriculture; and

25                   (2) is exempt from the overtime provisions of the federal Act.

26           **[(d)] (E)** The wage for overtime may be computed on the basis of each hour  
27 over 48 hours that an employee works during 1 workweek:

28                   (1) for an employee of a bowling establishment; and

29                   (2) for an employee of an institution that:

30                           (i) is not a hospital; but

- 1 (ii) is engaged primarily in the care of individuals who:  
2  
3 disorder; and  
4  
5 1. are aged, mentally retarded, or sick or have a mental  
6  
7 2. reside at the institution.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2009.