

SENATE BILL 831

K3
HB 1235/08 – ECM

9lr2695
CF 9lr2335

By: **Senators Peters, Currie, Frosh, Harrington, Madaleno, Muse, Pinsky,
Raskin, and Rosapepe**

Introduced and read first time: February 6, 2009

Assigned to: Finance

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.

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

21 (b) “Employer” includes a person who acts directly or indirectly in the
22 interest of another employer with an employee.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

4 3-415.

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

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

9 (1) an employee for whom the United States Secretary of
10 Transportation may set qualifications and maximum hours of service under 49 U.S.C.
11 § 3102;

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

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

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

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

23 (I) **THE DEVELOPMENTAL DISABILITIES ADMINISTRATION**
24 **OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

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

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

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

28 (6) **AN EMPLOYEE OF AN EMPLOYER THAT HAS LESS THAN 50**
29 **EMPLOYEES.**

30 3-420.

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

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

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

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

11 (1) **40 HOURS IN LESS THAN 5 CALENDAR DAYS DURING A**
12 **SCHEDULED WORKWEEK; OR**

13 (2) **80 HOURS IN LESS THAN 10 CALENDAR DAYS DURING 2**
14 **SCHEDULED WORKWEEKS.**

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

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

21 (1) is engaged in agriculture; and

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

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

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

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

27 (i) is not a hospital; but

28 (ii) is engaged primarily in the care of individuals who:

29 1. are aged, mentally retarded, or sick or have a mental
30 disorder; and

