

As Introduced

135th General Assembly

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H. B. No. 96

Representatives Jarrells, Mohamed

Cosponsors: Representatives Baker, Upchurch, Russo, Somani, Liston, Miranda, Blackshear, Brown, Galonski, Humphrey, Isaacsohn, Miller, A., Miller, J., Rogers, McNally, Robinson, Skindell, Brent, Brewer, Brennan, Weinstein, Troy, Thomas, C., Grim, Abdullahi, Sweeney, Lightbody, Denson, Forhan, Dell'Aquila

A BILL

To amend sections 4111.02, 4111.05, 4111.09, and 1
4111.14 and to repeal section 4111.07 of the 2
Revised Code to increase the state minimum wage. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4111.02, 4111.05, 4111.09, and 4
4111.14 of the Revised Code be amended to read as follows: 5

Sec. 4111.02. (A) Every employer, as defined in Section 6
34a of Article II, Ohio Constitution, shall pay each of the 7
employer's employees at a wage rate of not less than the ~~wage-~~ 8
~~rate specified in Section 34a of Article II, Ohio~~ 9
~~Constitution~~following wage rates: 10

(1) During the period beginning January 1, 2024, and 11
ending December 31, 2024, eleven dollars per hour; 12

(2) During the period beginning January 1, 2025, and 13
ending December 31, 2025, twelve dollars per hour; 14

(3) During the period beginning January 1, 2026, and 15

ending December 31, 2026, thirteen dollars per hour; 16

(4) During the period beginning January 1, 2027, and 17
ending December 31, 2027, fourteen dollars per hour; 18

(5) Beginning January 1, 2028, fifteen dollars per hour. 19

~~The~~ (B) On September 30, 2028, and every thirtieth day of 20
September thereafter, the director of commerce annually shall 21
adjust the wage rate as specified in division (A) (5) of this 22
section in accordance with Section 34a of Article II, Ohio 23
Constitution. The adjusted wage rate takes effect on the first 24
day of January immediately following the date of the adjustment. 25

(C) No political subdivision shall establish a minimum 26
wage rate different from the wage rate required under this 27
section. 28

(D) As used in this section, "employee" has the same 29
meaning as in section 4111.14 of the Revised Code. 30

Sec. 4111.05. The director of commerce shall adopt rules 31
in accordance with Chapter 119. of the Revised Code as the 32
director considers appropriate to carry out the purposes of 33
sections 4111.01 to 4111.17 of the Revised Code. The rules may 34
be amended from time to time and may include, but are not 35
limited to, rules defining and governing ~~apprentices, their~~ 36
~~number, proportion, and length of service,~~ bonuses and special 37
pay for special or extra work; permitted deductions or charges 38
to employees for board, lodging, apparel, or other facilities or 39
services customarily furnished by employers to employees; 40
inclusion of ascertainable gratuities in wages paid; allowances 41
for unascertainable gratuities or for other special conditions 42
or circumstances which may be usual in particular employer- 43
employee relationships; and the method of computation or the 44

period of time over which wages may be averaged to determine 45
whether the minimum wage or overtime rate has been paid. 46

Sec. 4111.09. Every employer subject to sections 4111.01 47
to 4111.17 of the Revised Code, or to any rules issued 48
thereunder, shall keep a summary of the sections, approved by 49
the director of commerce, and copies of any applicable rules 50
issued thereunder, or a summary of the rules, posted in a 51
conspicuous and accessible place in or about the premises 52
wherein any person subject thereto is employed. The director of 53
commerce shall make the summary described in this section 54
available on the web site of the department of commerce. The 55
director shall update this summary as necessary, but not less 56
than annually, in order to reflect changes in the minimum wage 57
rate as required under Section 34a of Article II, Ohio 58
Constitution, and section 4111.02 of the Revised Code. Employees 59
and employers shall be furnished copies of the summaries and 60
rules by the state, on request, without charge. 61

Sec. 4111.14. (A) Pursuant to the general assembly's 62
authority to establish a minimum wage under Section 34 of 63
Article II, Ohio Constitution, this section is in implementation 64
of Section 34a of Article II, Ohio Constitution. In implementing 65
Section 34a of Article II, Ohio Constitution, the general 66
assembly hereby finds that the purpose of Section 34a of Article 67
II, Ohio Constitution, is to: 68

(1) Ensure that Ohio employees, as defined in division (B) 69
(1) of this section, are paid the wage rate required by section 70
4111.02 of the Revised Code in accordance with Section 34a of 71
Article II, Ohio Constitution; 72

(2) Ensure that covered Ohio employers maintain certain 73
records that are directly related to the enforcement of the wage 74

rate requirements~~in~~ of Section 34a of Article II, Ohio 75
Constitution and section 4111.02 of the Revised Code; 76

(3) Ensure that Ohio employees who are paid the wage rate 77
required by ~~Section 34a of Article II, Ohio Constitution~~ section 78
4111.02 of the Revised Code, may enforce their right to receive 79
that wage rate in the manner set forth in Section 34a of Article 80
II, Ohio Constitution; and 81

(4) Protect the privacy of Ohio employees' pay and 82
personal information specified in Section 34a of Article II, 83
Ohio Constitution, by restricting an employee's access, and 84
access by a person acting on behalf of that employee, to the 85
employee's own pay and personal information. 86

(B) In accordance with Section 34a of Article II, Ohio 87
Constitution, the terms "employer," "employee," "employ," 88
"person," and "independent contractor" have the same meanings as 89
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 90
U.S.C. 203, as amended. In construing the meaning of these 91
terms, due consideration and great weight shall be given to the 92
United States department of labor's and federal courts' 93
interpretations of those terms under the Fair Labor Standards 94
Act and its regulations. As used in division (B) of this 95
section: 96

(1) "Employee" means individuals employed in Ohio, but 97
does not mean individuals who are excluded from the definition 98
of "employee" under 29 U.S.C. 203(e) or individuals who are 99
exempted from the minimum wage requirements in 29 U.S.C. 213 and 100
from the definition of "employee" in this chapter. 101

(2) "Employ" and "employee" do not include any person 102
acting as a volunteer. In construing who is a volunteer, 103

"volunteer" shall have the same meaning as in sections 553.101 104
to 553.106 of Title 29 of the Code of Federal Regulations, as 105
amended, and due consideration and great weight shall be given 106
to the United States department of labor's and federal courts' 107
interpretations of the term "volunteer" under the Fair Labor 108
Standards Act and its regulations. 109

(3) "Employer" does not include a franchisor with respect 110
to the franchisor's relationship with a franchisee or an 111
employee of a franchisee, unless the franchisor agrees to assume 112
that role in writing or a court of competent jurisdiction 113
determines that the franchisor exercises a type or degree of 114
control over the franchisee or the franchisee's employees that 115
is not customarily exercised by a franchisor for the purpose of 116
protecting the franchisor's trademark, brand, or both. For 117
purposes of this division, "franchisor" and "franchisee" have 118
the same meanings as in 16 C.F.R. 436.1. 119

(4) Subject to division (B)(5) of this section, "employee" 120
does not include an individual who operates a vehicle or vessel 121
in the performance of services for or on behalf of a motor 122
carrier transporting property and to whom all of the following 123
factors apply: 124

(a) The individual owns the vehicle or vessel that is used 125
in performing the services for or on behalf of the carrier, or 126
the individual leases the vehicle or vessel under a bona fide 127
lease agreement that is not a temporary replacement lease 128
agreement. For purposes of this division, a bona fide lease 129
agreement does not include an agreement between the individual 130
and the motor carrier transporting property for which, or on 131
whose behalf, the individual provides services. 132

(b) The individual is responsible for supplying the 133

necessary personal services to operate the vehicle or vessel 134
used to provide the service. 135

(c) The compensation paid to the individual is based on 136
factors related to work performed, including on a mileage-based 137
rate or a percentage of any schedule of rates, and not solely on 138
the basis of the hours or time expended. 139

(d) The individual substantially controls the means and 140
manner of performing the services, in conformance with 141
regulatory requirements and specifications of the shipper. 142

(e) The individual enters into a written contract with the 143
carrier for whom the individual is performing the services that 144
describes the relationship between the individual and the 145
carrier to be that of an independent contractor and not that of 146
an employee. 147

(f) The individual is responsible for substantially all of 148
the principal operating costs of the vehicle or vessel and 149
equipment used to provide the services, including maintenance, 150
fuel, repairs, supplies, vehicle or vessel insurance, and 151
personal expenses, except that the individual may be paid by the 152
carrier the carrier's fuel surcharge and incidental costs, 153
including tolls, permits, and lump sum fees. 154

(g) The individual is responsible for any economic loss or 155
economic gain from the arrangement with the carrier. 156

(5) A motor carrier may elect to consider an individual 157
described in division (B) (4) of this section as an employee for 158
purposes of this section. 159

(6) "Motor carrier" has the same meaning as in section 160
4923.01 of the Revised Code. 161

(C) In accordance with Section 34a of Article II, Ohio 162
Constitution, the state may issue licenses to employers 163
authorizing payment of a wage below that required by Section 34a 164
of Article II, Ohio Constitution, or section 4111.02 of the 165
Revised Code to individuals with mental or physical disabilities 166
that may otherwise adversely affect their opportunity for 167
employment. In issuing such licenses, the state shall abide by 168
the rules adopted pursuant to section 4111.06 of the Revised 169
Code. 170

(D) (1) In accordance with Section 34a of Article II, Ohio 171
Constitution, individuals employed in or about the property of 172
an employer or an individual's residence on a casual basis are 173
not included within the coverage of Section 34a of Article II, 174
Ohio Constitution. As used in division (D) of this section: 175

(a) "Casual basis" means employment that is irregular or 176
intermittent and that is not performed by an individual whose 177
vocation is to be employed in or about the property of the 178
employer or individual's residence. In construing who is 179
employed on a "casual basis," due consideration and great weight 180
shall be given to the United States department of labor's and 181
federal courts' interpretations of the term "casual basis" under 182
the Fair Labor Standards Act and its regulations. 183

(b) "An individual employed in or about the property of an 184
employer or individual's residence" means an individual employed 185
on a casual basis or an individual employed in or about a 186
residence on a casual basis, respectively. 187

(2) In accordance with Section 34a of Article II, Ohio 188
Constitution, employees of a solely family-owned and operated 189
business who are family members of an owner are not included 190
within the coverage of Section 34a of Article II, Ohio 191

Constitution. As used in division (D) (2) of this section, 192
"family member" means a parent, spouse, child, stepchild, 193
sibling, grandparent, grandchild, or other member of an owner's 194
immediate family. 195

(E) In accordance with Section 34a of Article II, Ohio 196
Constitution, an employer shall at the time of hire provide an 197
employee with the employer's name, address, telephone number, 198
and other contact information and update such information when 199
it changes. As used in division (E) of this section: 200

(1) "Other contact information" may include, where 201
applicable, the address of the employer's internet site on the 202
world wide web, the employer's electronic mail address, fax 203
number, or the name, address, and telephone number of the 204
employer's statutory agent. "Other contact information" does not 205
include the name, address, telephone number, fax number, 206
internet site address, or electronic mail address of any 207
employee, shareholder, officer, director, supervisor, manager, 208
or other individual employed by or associated with an employer. 209

(2) "When it changes" means that the employer shall 210
provide its employees with the change in its name, address, 211
telephone number, or other contact information within sixty 212
business days after the change occurs. The employer shall 213
provide the changed information by using any of its usual 214
methods of communicating with its employees, including, but not 215
limited to, listing the change on the employer's internet site 216
on the world wide web, internal computer network, or a bulletin 217
board where it commonly posts employee communications or by 218
insertion or inclusion with employees' paychecks or pay stubs. 219

(F) In accordance with Section 34a of Article II, Ohio 220
Constitution, an employer shall maintain a record of the name, 221

address, occupation, pay rate, hours worked for each day worked, 222
and each amount paid an employee for a period of not less than 223
three years following the last date the employee was employed by 224
that employer. As used in division (F) of this section: 225

(1) "Address" means an employee's home address as 226
maintained in the employer's personnel file or personnel 227
database for that employee. 228

(2) (a) With respect to employees who are not exempt from 229
the overtime pay requirements of the Fair Labor Standards Act or 230
this chapter, "pay rate" means an employee's base rate of pay. 231

(b) With respect to employees who are exempt from the 232
overtime pay requirements of the Fair Labor Standards Act or 233
this chapter, "pay rate" means an employee's annual base salary 234
or other rate of pay by which the particular employee qualifies 235
for that exemption under the Fair Labor Standards Act or this 236
chapter, but does not include bonuses, stock options, 237
incentives, deferred compensation, or any other similar form of 238
compensation. 239

(3) "Record" means the name, address, occupation, pay 240
rate, hours worked for each day worked, and each amount paid an 241
employee in one or more documents, databases, or other paper or 242
electronic forms of record-keeping maintained by an employer. No 243
one particular method or form of maintaining such a record or 244
records is required under this division. An employer is not 245
required to create or maintain a single record containing only 246
the employee's name, address, occupation, pay rate, hours worked 247
for each day worked, and each amount paid an employee. An 248
employer shall maintain a record or records from which the 249
employee or person acting on behalf of that employee could 250
reasonably review the information requested by the employee or 251

person. 252

An employer is not required to maintain the records 253
specified in division (F) (3) of this section for any period 254
before January 1, 2007. On and after January 1, 2007, the 255
employer shall maintain the records required by division (F) (3) 256
of this section for three years from the date the hours were 257
worked by the employee and for three years after the date the 258
employee's employment ends. 259

(4) (a) Except for individuals specified in division (F) (4) 260
(b) of this section, "hours worked for each day worked" means 261
the total amount of time worked by an employee in whatever 262
increments the employer uses for its payroll purposes during a 263
day worked by the employee. An employer is not required to keep 264
a record of the time of day an employee begins and ends work on 265
any given day. As used in division (F) (4) of this section, "day" 266
means a fixed period of twenty-four consecutive hours during 267
which an employee performs work for an employer. 268

(b) An employer is not required to keep records of "hours 269
worked for each day worked" for individuals for whom the 270
employer is not required to keep those records under the Fair 271
Labor Standards Act and its regulations or individuals who are 272
not subject to the overtime pay requirements specified in 273
section 4111.03 of the Revised Code. 274

(5) "Each amount paid an employee" means the total gross 275
wages paid to an employee for each pay period. As used in 276
division (F) (5) of this section, "pay period" means the period 277
of time designated by an employer to pay an employee the 278
employee's gross wages in accordance with the employer's payroll 279
practices under section 4113.15 of the Revised Code. 280

(G) In accordance with Section 34a of Article II, Ohio 281
Constitution, an employer must provide such information without 282
charge to an employee or person acting on behalf of an employee 283
upon request. As used in division (G) of this section: 284

(1) "Such information" means the name, address, 285
occupation, pay rate, hours worked for each day worked, and each 286
amount paid for the specific employee who has requested that 287
specific employee's own information and does not include the 288
name, address, occupation, pay rate, hours worked for each day 289
worked, or each amount paid of any other employee of the 290
employer. "Such information" does not include hours worked for 291
each day worked by individuals for whom an employer is not 292
required to keep that information under the Fair Labor Standards 293
Act and its regulations or individuals who are not subject to 294
the overtime pay requirements specified in section 4111.03 of 295
the Revised Code. 296

(2) "Acting on behalf of an employee" means a person 297
acting on behalf of an employee as any of the following: 298

(a) The certified or legally recognized collective 299
bargaining representative for that employee under the applicable 300
federal law or Chapter 4117. of the Revised Code; 301

(b) The employee's attorney; 302

(c) The employee's parent, guardian, or legal custodian. 303

A person "acting on behalf of an employee" must be 304
specifically authorized by an employee in order to make a 305
request for that employee's own name, address, occupation, pay 306
rate, hours worked for each day worked, and each amount paid to 307
that employee. 308

(3) "Provide" means that an employer shall provide the 309

requested information within thirty business days after the date 310
the employer receives the request, unless either of the 311
following occurs: 312

(a) The employer and the employee or person acting on 313
behalf of the employee agree to some alternative time period for 314
providing the information. 315

(b) The thirty-day period would cause a hardship on the 316
employer under the circumstances, in which case the employer 317
must provide the requested information as soon as practicable. 318

(4) A "request" made by an employee or a person acting on 319
behalf of an employee means a request by an employee or a person 320
acting on behalf of an employee for the employee's own 321
information. The employer may require that the employee provide 322
the employer with a written request that has been signed by the 323
employee and notarized and that reasonably specifies the 324
particular information being requested. The employer may require 325
that the person acting on behalf of an employee provide the 326
employer with a written request that has been signed by the 327
employee whose information is being requested and notarized and 328
that reasonably specifies the particular information being 329
requested. 330

(H) In accordance with Section 34a of Article II, Ohio 331
Constitution, an employee, person acting on behalf of one or 332
more employees, and any other interested party may file a 333
complaint with the state for a violation of any provision of 334
Section 34a of Article II, Ohio Constitution, or any law or 335
regulation implementing its provisions. Such complaint shall be 336
promptly investigated and resolved by the state. The employee's 337
name shall be kept confidential unless disclosure is necessary 338
to resolution of a complaint and the employee consents to 339

disclosure. As used in division (H) of this section: 340

(1) "Complaint" means a complaint of an alleged violation 341
pertaining to harm suffered by the employee filing the 342
complaint, by a person acting on behalf of one or more 343
employees, or by an interested party. 344

(2) "Acting on behalf of one or more employees" has the 345
same meaning as "acting on behalf of an employee" in division 346
(G) (2) of this section. Each employee must provide a separate 347
written and notarized authorization before the person acting on 348
that employee's or those employees' behalf may request the name, 349
address, occupation, pay rate, hours worked for each day worked, 350
and each amount paid for the particular employee. 351

(3) "Interested party" means a party who alleges to be 352
injured by the alleged violation and who has standing to file a 353
complaint under common law principles of standing. 354

(4) "Resolved by the state" means that the complaint has 355
been resolved to the satisfaction of the state. 356

(5) "Shall be kept confidential" means that the state 357
shall keep the name of the employee confidential as required by 358
division (H) of this section. 359

(I) In accordance with Section 34a of Article II, Ohio 360
Constitution, the state may on its own initiative investigate an 361
employer's compliance with Section 34a of Article II, Ohio 362
Constitution, and any law or regulation implementing Section 34a 363
of Article II, Ohio Constitution. The employer shall make 364
available to the state any records related to such investigation 365
and other information required for enforcement of Section 34a of 366
Article II, Ohio Constitution or any law or regulation 367
implementing Section 34a of Article II, Ohio Constitution. The 368

state shall investigate an employer's compliance with this 369
section in accordance with the procedures described in section 370
4111.04 of the Revised Code. All records and information related 371
to investigations by the state are confidential and are not a 372
public record subject to section 149.43 of the Revised Code. 373
This division does not prevent the state from releasing to or 374
exchanging with other state and federal wage and hour regulatory 375
authorities information related to investigations. 376

(J) In accordance with Section 34a of Article II, Ohio 377
Constitution, damages shall be calculated as an additional two 378
times the amount of the back wages and in the case of a 379
violation of an anti-retaliation provision an amount set by the 380
state or court sufficient to compensate the employee and deter 381
future violations, but not less than one hundred fifty dollars 382
for each day that the violation continued. The "not less than 383
one hundred fifty dollar" penalty specified in division (J) of 384
this section shall be imposed only for violations of the anti- 385
retaliation provision in Section 34a of Article II, Ohio 386
Constitution. 387

(K) In accordance with Section 34a of Article II, Ohio 388
Constitution, an action for equitable and monetary relief may be 389
brought against an employer by the attorney general and/or an 390
employee or person acting on behalf of an employee or all 391
similarly situated employees in any court of competent 392
jurisdiction, including the court of common pleas of an 393
employee's county of residence, for any violation of Section 34a 394
of Article II, Ohio Constitution, or any law or regulation 395
implementing its provisions within three years of the violation 396
or of when the violation ceased if it was of a continuing 397
nature, or within one year after notification to the employee of 398
final disposition by the state of a complaint for the same 399

violation, whichever is later. 400

(1) As used in division (K) of this section, 401
"notification" means the date on which the notice was sent to 402
the employee by the state. 403

(2) No employee shall join as a party plaintiff in any 404
civil action that is brought under division (K) of this section 405
by an employee, person acting on behalf of an employee, or 406
person acting on behalf of all similarly situated employees 407
unless that employee first gives written consent to become such 408
a party plaintiff and that consent is filed with the court in 409
which the action is brought. 410

(3) A civil action regarding an alleged violation of this 411
section shall be maintained only under division (K) of this 412
section. This division does not preclude the joinder in a single 413
civil action of an action under this division and an action 414
under section 4111.10 of the Revised Code. 415

(4) Any agreement between an employee and employer to work 416
for less than the wage rate specified in ~~Section 34a of Article~~ 417
~~II, Ohio Constitution~~ section 4111.02 of the Revised Code, is no 418
defense to an action under this section. 419

(L) In accordance with Section 34a of Article II, Ohio 420
Constitution, there shall be no exhaustion requirement, no 421
procedural, pleading, or burden of proof requirements beyond 422
those that apply generally to civil suits in order to maintain 423
such action and no liability for costs or attorney's fees on an 424
employee except upon a finding that such action was frivolous in 425
accordance with the same standards that apply generally in civil 426
suits. Nothing in division (L) of this section affects the right 427
of an employer and employee to agree to submit a dispute under 428

this section to alternative dispute resolution, including, but 429
not limited to, arbitration, in lieu of maintaining the civil 430
suit specified in division (K) of this section. Nothing in this 431
division limits the state's ability to investigate or enforce 432
this section. 433

(M) An employer who provides such information specified in 434
Section 34a of Article II, Ohio Constitution, shall be immune 435
from any civil liability for injury, death, or loss to person or 436
property that otherwise might be incurred or imposed as a result 437
of providing that information to an employee or person acting on 438
behalf of an employee in response to a request by the employee 439
or person, and the employer shall not be subject to the 440
provisions of Chapters 1347. and 1349. of the Revised Code to 441
the extent that such provisions would otherwise apply. As used 442
in division (M) of this section, "such information," "acting on 443
behalf of an employee," and "request" have the same meanings as 444
in division (G) of this section. 445

(N) As used in this section, "the state" means the 446
director of commerce. 447

Section 2. That existing sections 4111.02, 4111.05, 448
4111.09, and 4111.14 of the Revised Code are hereby repealed. 449

Section 3. That section 4111.07 of the Revised Code is 450
hereby repealed. 451