

ASSEMBLY, No. 5433

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 10, 2025

Sponsored by:

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

Increases minimum wage for tipped workers.

CURRENT VERSION OF TEXT

As introduced.



A5433 REYNOLDS-JACKSON

2

1 AN ACT concerning the minimum wage for tipped workers and
2 amending P.L.1966, c.113.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
8 read as follows:

9 5. a. Except as provided in subsections c., d., e. g., and i. of this
10 section, each employer shall pay to each of his employees wages at a
11 rate of not less than \$8.85 per hour as of January 1, 2019 and, on
12 January 1 of 2020 and January 1 of each subsequent year, the
13 minimum wage shall be increased by any increase in the consumer
14 price index for all urban wage earners and clerical workers (CPI-W)
15 as calculated by the federal government for the 12 months prior to
16 the September 30 preceding that January 1, except that any of the
17 following rates shall apply if it exceeds the rate determined in
18 accordance with the applicable increase in the CPI-W for the
19 indicated year: on July 1, 2019, the minimum wage shall be \$10.00
20 per hour; on January 1, 2020, the minimum wage shall be \$11.00 per
21 hour; and on January 1 of each year from 2021 to 2024, inclusive, the
22 minimum wage shall be increased from the rate of the preceding year
23 by \$1.00 per hour. If the federal minimum hourly wage rate set by
24 section 6 of the federal "Fair Labor Standards Act of 1938" (29
25 U.S.C. s.206), or a successor federal law, is raised to a level higher
26 than the State minimum wage rate set by this subsection, then the
27 State minimum wage rate shall be increased to the level of the federal
28 minimum wage rate and subsequent increases based on increases in
29 the CPI-W pursuant to this section shall be applied to the higher
30 minimum wage rate. If an applicable wage order has been issued by
31 the commissioner under section 17 (C.34:11-56a16) of this act, the
32 employer shall also pay not less than the wages prescribed in said
33 order. The wage rates fixed in this section shall not be applicable to
34 persons under the age of 18 not possessing a special vocational
35 school graduate permit issued pursuant to section 15 of P.L.1940,
36 c.153 (C.34:2-21.15), or to persons employed as salesmen of motor
37 vehicles, or to persons employed as outside salesmen as such terms
38 shall be defined and delimited in regulations adopted by the
39 commissioner, or to persons employed in a volunteer capacity and
40 receiving only incidental benefits at a county or other agricultural fair
41 by a nonprofit or religious corporation or a nonprofit or religious
42 association which conducts or participates in that fair.

43 b. (1) An employer shall also pay each employee not less than
44 1 1/2 times such employee's regular hourly rate for each hour of
45 working time in excess of 40 hours in any week, except that this

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 overtime rate shall not apply: to any individual employed in a bona
2 fide executive, administrative, or professional capacity; or to
3 employees engaged to labor on a farm or employed in a hotel; or to
4 an employee of a common carrier of passengers by motor bus; or to
5 a limousine driver who is an employee of an employer engaged in the
6 business of operating limousines; or to employees engaged in labor
7 relative to the raising or care of livestock.

8 (2) Employees engaged on a piece-rate or regular hourly rate
9 basis to labor on a farm shall be paid for each day worked not less
10 than the applicable minimum hourly wage rate multiplied by the total
11 number of hours worked.

12 (3) Full-time students may be employed by the college or
13 university at which they are enrolled at not less than 85% of the
14 effective applicable minimum wage rate.

15 c. Employees of a small employer, and employees who are
16 engaged in seasonal employment, except for employees who
17 customarily and regularly receive gratuities or tips who shall be
18 subject to the provisions of subsections a. and d. of this section, shall
19 be paid \$8.85 per hour as of January 1, 2019 and, on January 1 of
20 2020 and January 1 of each subsequent year, that minimum wage rate
21 shall be increased by any increase in the consumer price index for all
22 urban wage earners and clerical workers (CPI-W) as calculated by
23 the federal government for the 12 months prior to the September 30
24 preceding that January 1, except that any of the following rates shall
25 apply if it exceeds the rate determined in accordance with the
26 applicable increase in the CPI-W for the indicated year: on January
27 1, 2020, the minimum wage shall be \$10.30 per hour; and on January
28 1 of each year from 2021 to 2025, inclusive, the minimum wage shall
29 be increased from the rate of the preceding year by eighty cents per
30 hour, and, in 2026, the minimum wage shall be increased from the
31 rate of the preceding year by seventy cents per hour, and, in each year
32 from 2027 to 2028 inclusive, the minimum wage for employees
33 subject to this subsection c. shall be increased by the same amount as
34 the increase for employees subject to subsection a. of this section
35 based on CPI-W increases, plus one half of the difference between
36 \$15.00 per hour and the minimum wage in effect in 2026 for
37 employees pursuant to subsection a. of this section, so that, by 2028,
38 the minimum wage for employees subject to this subsection shall be
39 the same as the minimum wage in effect for employees subject to
40 subsection a. of this section. If the federal minimum hourly wage
41 rate set by section 6 of the federal "Fair Labor Standards Act of 1938"
42 (29 U.S.C. s.206), or a successor federal law, is raised to a level
43 higher than the State minimum wage rate set by this subsection, then
44 the State minimum wage rate shall be increased to the level of the
45 federal minimum wage rate and subsequent increases based on
46 increases in the CPI-W pursuant to this subsection shall be applied to
47 the higher minimum wage rate.

1 d. Employees engaged on a piece-rate or regular hourly rate
2 basis to labor on a farm shall be paid \$8.85 per hour as of January 1,
3 2019 and, on January 1 of 2020 and January 1 of each subsequent
4 year, that minimum wage rate shall be increased by any increase in
5 the consumer price index for all urban wage earners and clerical
6 workers (CPI-W) as calculated by the federal government for the 12
7 months prior to the September 30 preceding that January 1, except
8 that any of the following rates shall apply if it exceeds the rate
9 determined in accordance with the applicable increase in the CPI-W
10 for the indicated year:

11 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
12 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
13 hour; and on January 1 of each year from 2023 to 2024, inclusive, the
14 minimum wage shall be increased from the rate of the preceding year
15 by eighty cents per hour; and

16 (2) subject to the provisions of paragraph (3) of this subsection
17 d., minimum wage rates shall be increased as follows: on January 1
18 of 2025, the minimum wage shall be increased to \$13.40, and on
19 January 1 of each year from 2026 to 2027, inclusive, the minimum
20 wage shall be increased from the rate of the preceding year by eighty
21 cents per hour, and, in each year from 2028 to 2030 inclusive, the
22 minimum wage for employees subject to this subsection d. shall be
23 increased during that year by the same amount as the increase in that
24 year for employees subject to subsection a. of this section based on
25 CPI-W increases, plus one third of the difference between \$15.00 per
26 hour and the minimum wage in effect in 2027 for employees pursuant
27 to subsection a. of this section, so that, by 2030, the minimum wage
28 for employees subject to this subsection shall be the same as the
29 minimum wage in effect for employees subject to subsection a. of
30 this section.

31 (3) Not later than March 31, 2024, the commissioner and the
32 Secretary of Agriculture shall review the report issued by the
33 commissioner pursuant to subsection b. of section 4 of P.L.2019, c.32
34 (C.34:11-56a4.10) and shall consider any information provided by
35 the secretary regarding the impact on farm employers and the
36 viability of the State's agricultural industry of the increases of the
37 minimum wage made pursuant to paragraph (1) of this subsection,
38 and the potential impact of the increases which would be set by
39 paragraph (2) of this subsection, including comparisons with the
40 wage rates in the agricultural industries in other states, and shall
41 recommend: approval of the increases set forth in paragraph (2) of
42 this subsection; disapproval of the increases set forth in paragraph (2)
43 of this subsection; or an alternative manner of changing the minimum
44 wage after 2024 for employees engaged on a piece-rate or regular
45 hourly rate basis to labor on a farm. In contemplation of the
46 possibility that the commissioner and the secretary are unable to
47 agree on the recommendation required by this paragraph, by
48 December 31, 2021, the Governor shall appoint a public member

1 subject to advice and consent by the Senate, who will serve as a tie-
2 breaking member if needed. The increases set forth in paragraph (2)
3 of this subsection shall take effect unless there is a recommendation
4 pursuant to this paragraph to disapprove the increases or for an
5 alternative manner of changing the minimum wage after 2024 for
6 employees engaged on a piece-rate or regular hourly rate basis to
7 labor on a farm and the Legislature, not later than June 30, 2024,
8 enacts a concurrent resolution approving the implementation of that
9 recommendation. Beginning in 2024, the commissioner, secretary,
10 and public member shall meet biennially to make either a one or two
11 year recommendation to the Legislature for implementation by way
12 of concurrent resolution.

13 (4) If the federal minimum hourly wage rate set by section 6 of
14 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
15 a successor federal law, is raised to a level higher than the State
16 minimum wage rate set by this subsection, then the State minimum
17 wage rate shall be increased to the level of the federal minimum wage
18 rate and subsequent increases based on increases in the CPI-W
19 pursuant to this subsection shall be applied to the higher minimum
20 wage rate.

21 e. With respect to an employee who customarily and regularly
22 receives gratuities or tips, every employer is entitled to a credit for
23 the gratuities or tips received by the employee against the hourly
24 wage rate that would otherwise be paid to the employee pursuant to
25 subsection a. of this section of the following amounts: after
26 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
27 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
28 calendar years 2020, 2021 and 2022, \$7.87 per hour; during calendar
29 year 2023, \$8.87 per hour; **and** during calendar **year** years 2024
30 and **subsequent calendar years,** 2025, \$9.87 per hour; during
31 calendar year 2026, \$7.90; during calendar year 2027, \$5.92; during
32 calendar year 2028, \$3.95; and during calendar year 2029, \$1.97.
33 There shall be no credit in calendar year 2030 or any subsequent year.

34 f. Notwithstanding the provisions of this section to the contrary,
35 every trucking industry employer shall pay to all drivers, helpers,
36 loaders and mechanics for whom the Secretary of Transportation may
37 prescribe maximum hours of work for the safe operation of vehicles,
38 pursuant to section 31502(b) of the federal Motor Carrier Act, 49
39 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times the
40 minimum wage required pursuant to this section and N.J.A.C. 12:56-
41 3.1. Employees engaged in the trucking industry shall be paid no less
42 than the minimum wage rate as provided in this section and N.J.A.C.
43 12:56-3.1. As used in this section, "trucking industry employer"
44 means any business or establishment primarily operating for the
45 purpose of conveying property from one place to another by road or
46 highway, including the storage and warehousing of goods and
47 property. Such an employer shall also be subject to the jurisdiction
48 of the Secretary of Transportation pursuant to the federal Motor

1 Carrier Act, 49 U.S.C.s.31501 et seq., whose employees are exempt
2 under section 213(b)(1) of the federal "Fair Labor Standards Act of
3 1938," 29 U.S.C. s.213(b)(1), which provides an exemption to
4 employees regulated by section 207 of the federal "Fair Labor
5 Standards Act of 1938," 29 U.S.C. s.207, and the Interstate
6 Commerce Act, 49 U.S.C. s.501 et al.

7 g. Commencing on January 1, 2020, a training wage of not less
8 than 90 percent of the minimum wage rate otherwise set pursuant to
9 subsection a. of this section may be paid to an employee who is
10 enrolled in an established employer on-the-job or other training
11 program which meets standards set by regulations adopted by the
12 commissioner. The period during which an employer may pay the
13 training wage to the employee shall be the first 120 hours of work
14 after hiring the employee in employment in an occupation in which
15 the employee has no previous similar or related experience. An
16 employer shall not utilize any employee paid the training wage in a
17 manner which causes, induces, encourages or assists any
18 displacement or partial displacement of any currently employed
19 worker, including any previous recipient of the training wage, by
20 reducing hours of a currently employed worker, replacing a current
21 or laid off employee with a trainee, or by relocating operations
22 resulting in a loss of employment at a previous workplace, or in a
23 manner which replaces, supplants, competes with or duplicates any
24 approved apprenticeship program. An employer who pays an
25 employee a training wage shall make a good faith effort to continue
26 to employ the employee after the period of the training wage expires
27 and shall not hire the employee at the training wage unless there is a
28 reasonable expectation that there will be regular employment, paying
29 at or above the effective minimum wage, for the trainee upon the
30 successful completion of the period of the training wage. If the
31 commissioner determines that an employer has made repeated,
32 knowing violations of the provisions of this subsection regarding the
33 payment of a training wage, the commissioner shall suspend the
34 employer's right to pay a training wage for a period set pursuant to
35 regulations adopted by the commissioner, but not less than three
36 years.

37 h. The provisions of this section shall not be construed as
38 prohibiting any political subdivision of the State from adopting an
39 ordinance, resolution, regulation or rule, or entering into any
40 agreement, establishing any standard for vendors, contractors and
41 subcontractors of the subdivision regarding wage rates or overtime
42 compensation which is higher than the standards provided for in this
43 section, and no provision of any other State or federal law
44 establishing a minimum standard regarding wages or other terms and
45 conditions of employment shall be construed as preventing a political
46 subdivision of the State from adopting an ordinance, resolution,
47 regulation or rule, or entering into any agreement, establishing a
48 standard for vendors, contractors and subcontractors of the

1 subdivision which is higher than the State or federal law or which
2 otherwise provides greater protections or rights to employees of the
3 vendors, contractors and subcontractors of the subdivision, unless the
4 State or federal law expressly prohibits the subdivision from adopting
5 the ordinance, resolution, regulation or rule, or entering into the
6 agreement.

7 i. Effective on the first day of the second month next following
8 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
9 minimum wage for long-term care facility direct care staff members
10 shall be in an amount that is \$3 higher than the prevailing minimum
11 wage established pursuant to subsection a. of this section.

12 (cf: P.L.2023, c.262, s.8)

13

14 2. This act shall take effect immediately.

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STATEMENT

18

19 This bill amends the minimum wage law, P.L.1966, c.113, to
20 phase out the credit provided by that law to employers who employ
21 employees who receive gratuities or tips. The bill, over a five-year
22 period, reduces the current credit of \$9.87 per hour to \$7.90 per hour
23 in 2026, \$5.92 per hour in 2027, \$3.95 per hour in 2028, \$1.97 per
24 hour in 2029, and eliminating the credit in 2030 and all subsequent
25 years, thus providing tipped employees with the same cash minimum
26 wage as other workers.

27 The current law allows an employer of a tipped employee to count
28 the tips received by the employee towards compliance with minimum
29 wage requirements. The eventual elimination of the tip credit by this
30 bill will require that the employer pay the full amount of the
31 minimum wage without regard to any amount of tips received by the
32 employee.