

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Ensure Fair Wages

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 26 MRSA §603, sub-§3, ¶D,** as enacted by PL 1999, c. 750, §1, is amended to read:

D. An individual exempt from the definition of employee in section 663, subsection 3, paragraph A, B, C, F, G, I or J;

**Sec. 2. 26 MRSA §663, sub-§3, ¶B** is repealed.

**Sec. 3. 26 MRSA §663, sub-§3, ¶E,** as repealed and replaced by PL 1979, c. 516, §1, is repealed.

**Sec. 4. 26 MRSA §664, sub-§1,** as amended by PL 2005, c. 578, §1, is further amended to read:

**1. Minimum wage.** The minimum hourly wage is \$6.50 per hour. Starting October 1, 2006, the minimum hourly wage is \$6.75 per hour. Starting October 1, 2007, the minimum hourly wage is \$7.00 per hour. Starting October 1, 2008, the minimum hourly wage is \$7.70 per hour. Starting October 1, 2009, the minimum hourly wage is \$8.40 per hour. On September 30, 2009, and on September 30th of each year thereafter, the Department of Labor shall calculate an adjusted minimum wage rate to maintain employee purchasing power. The adjusted minimum wage must be calculated to the nearest cent using the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, or a successor index, for the 12 months prior to each September 1st, as calculated by the United States Department of Labor. Each adjusted minimum wage rate so calculated takes effect January 1st of the following year. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than \$1 per hour.

**Sec. 5. 26 MRSA §664, sub-§2,** as enacted by PL 1995, c. 305, §1, is amended to read:

**2. Tip credit.** An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed ~~50% of the minimum hourly wage established in this section~~ \$3 per hour. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

**Sec. 6. 26 MRSA §664, sub-§3, ¶B,** as enacted by PL 1995, c. 305, §1, is repealed.

**Sec. 7. 26 MRSA §664, sub-§3, ¶E,** as amended by PL 2001, c. 628, §1 and affected by §5, is repealed.

**Sec. 8. 26 MRSA §670**, as amended by PL 1965, c. 410, §8, is further amended to read:

**§ 670. Employees' remedies**

~~Any~~An employer shall ~~be~~is liable to ~~the~~an employee ~~or employees~~ for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee ~~or employees~~, in any action brought to recover unpaid wages under this subchapter, such a judgment shall ~~include~~must include, in addition to the unpaid wages adjudged to be due, an additional amount equal to such wages as liquidated damages, and costs of suit including a reasonable attorney's ~~fees~~and a civil penalty of not less than \$1,000 nor more than \$10,000, 90% of which civil penalty must be paid to the State.

~~An employer is liable to an employee for discharging or in any other manner discriminating against any employee because the employee in any way invokes that employee's rights or the rights of another under this subchapter. Upon a judgment being rendered in favor of any employee or employees, in any action brought for retaliation under this subchapter, such a judgment must include, in addition to compensatory damages, costs of suit including reasonable attorney's fees and a civil penalty of not less than \$1,000 nor more than \$10,000, 90% of which civil penalty must be paid to the State.~~

~~On October 1st of each year, beginning on October 1, 2008, the minimum and maximum civil penalties under this section must be adjusted by the Department of Labor to reflect changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, or a successor index, for the 12 months prior to each September 1st, as calculated by the United States Department of Labor.~~

**Sec. 9. 26 MRSA §671**, as amended by PL 1971, c. 620, §13, is further amended to read:

**§ 671. Penalties**

~~Any~~An employer who violates this subchapter shall ~~be~~is punished by a fine of not less than \$50\$1,000 nor more than \$200\$10,000. Ten percent of any fine must be awarded to the employee injured by the violation.

~~Any~~An employer, who discharges or in any other manner discriminates against any employee because ~~such~~the employee makes a complaint to the director or to the county attorney concerning a violation ~~of~~in any way invokes that employee's rights or the rights of another under this subchapter; shall ~~be~~is punished by a fine of not less than \$50\$1,000 nor more than \$200\$10,000. Ten percent of any fine must be awarded to the employee injured by the violation.

~~On October 1st of each year, beginning on October 1, 2008, the minimum and maximum fines under this section must be adjusted by the Department of Labor to reflect changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, or a successor index, for the 12 months prior to each September 1st, as calculated by the United States Department of Labor.~~

In the event of the violation of any of the provisions of this subchapter, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation thereof.

**SUMMARY**

This bill increases the minimum wage to \$7.70 per hour in 2008 and to \$8.40 per hour in 2009. Each year after that, the minimum wage is adjusted based on changes in prices, so that the minimum hourly wage will retain its purchasing power. The price adjustment is based on the change in the Consumer Price Index.

The bill also removes exemptions to the State's minimum wage and overtime laws. The bill also changes the tip credit to \$3 per hour rather than 50% of the state minimum wage as under current law.

The bill also amends the laws governing enforcement of minimum wage and overtime laws by increasing penalties, increasing remedies in private civil actions and expanding the scope of antiretaliation provisions.