

STATE OF NEW YORK

1240

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. JAFFEE, SIMON, ORTIZ, CAHILL, BARRON, RICHARDSON, GOTTFRIED, WALKER, ABINANTI, L. ROSENTHAL, HEVESI, SIMOTAS, COLTON, D'URSO, WEPRIN -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the minimum wage

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 652 of the labor law, as amended
2 by chapter 38 of the laws of 1990, is amended to read as follows:

3 2. Existing wage orders. The minimum wage orders in effect on the
4 effective date of this act shall remain in full force and effect, except
5 as modified in accordance with the provisions of this article.

6 Such minimum wage orders shall be modified by the commissioner to
7 increase all monetary amounts specified therein in the same proportion
8 as the increase in the hourly minimum wage as provided in subdivision
9 one of this section, including the amounts specified in such minimum
10 wage orders as allowances for gratuities, and when furnished by the
11 employer to its employees, for meals, lodging, apparel and other such
12 items, services and facilities, except that the hourly cash wage for
13 food service workers and service employees who receive tips shall not be
14 less than the cash wage as provided in subdivision four of this section
15 and the maximum credit for tips in minimum wage orders shall be modified
16 so that such credit, when combined with this cash wage, is equal to the
17 minimum wage. All amounts so modified shall be rounded off to the near-
18 est five cents. The modified orders shall be promulgated by the commis-
19 sioner without a public hearing, and without reference to a wage board,
20 and shall become effective on the effective date of such increases in
21 the minimum wage except as otherwise provided in this subdivision,
22 notwithstanding any other provision of this article.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 § 2. Subdivision 4 of section 652 of the labor law, as amended by
2 section 2 of part K of chapter 54 of the laws of 2016, is amended to
3 read as follows:

4 4. Notwithstanding subdivisions one and two of this section, the wage
5 for an employee who is a food service worker receiving tips shall be a
6 cash wage of at least two-thirds of the minimum wage rates set forth in
7 subdivision one of this section, rounded to the nearest five cents or
8 seven dollars and fifty cents, whichever is higher, provided that the
9 tips of such an employee, when added to such cash wage, are equal to or
10 exceed the minimum wage in effect pursuant to subdivision one of this
11 section and provided further that no other cash wage is established
12 pursuant to section six hundred fifty-three of this article, except that
13 any cash wage established pursuant to section six hundred fifty-three of
14 this article shall not be less than the cash wage established by this
15 subdivision.

16 (a) Notwithstanding subdivisions one and two of this section and
17 section six hundred fifty-three of this article, the wage for an employ-
18 ee who is a food service worker or service employee receiving tips and
19 paid in accordance with Part 146 of Title 12 of the New York state
20 compilation of codes, rules and regulations shall be, for each hour
21 worked in the city of New York, a cash wage of not less than:

- 22 \$9.00 per hour on and after December 31, 2019;
- 23 \$10.50 per hour on and after December 31, 2020;
- 24 \$12.00 per hour on and after December 31, 2021;
- 25 \$13.50 per hour on and after December 31, 2022;
- 26 \$15.00 per hour on and after December 31, 2023.

27 Beginning on December thirty-first, two thousand twenty-four, the cash
28 wage payable to a food service worker or service worker under this para-
29 graph shall be not less than the wage established pursuant to paragraph
30 (a) of subdivision one of this section.

31 (b) Notwithstanding subdivisions one and two of this section and
32 section six hundred fifty-three of this article, the wage for an employ-
33 ee who is a food service worker or service employee receiving tips and
34 paid in accordance with Part 146 of Title 12 of the New York state
35 compilation of codes, rules and regulations shall be, for each hour
36 worked in the counties of Nassau, Suffolk and Westchester, a cash wage
37 of not less than:

- 38 \$8.00 per hour on and after December 31, 2019;
- 39 \$9.50 per hour on and after December 31, 2020;
- 40 \$11.00 per hour on and after December 31, 2021;
- 41 \$13.00 per hour on and after December 31, 2022;
- 42 \$15.00 per hour on and after December 31, 2023.

43 Beginning on December thirty-first, two thousand twenty-four, the cash
44 wage payable to a food service worker or service worker under this para-
45 graph shall be not less than the wage established pursuant to paragraph
46 (b) of subdivision one of this section.

47 (c) Notwithstanding subdivisions one and two of this section and
48 section six hundred fifty-three of this article, the wage for an employ-
49 ee who is a food service worker or service employee receiving tips and
50 paid in accordance with Part 146 of Title 12 of the New York state
51 compilation of codes, rules and regulations shall be, for each hour
52 worked outside the city of New York and the counties of Nassau, Suffolk
53 and Westchester, a cash wage of not less than:

- 54 \$8.00 per hour on and after December 31, 2019;
- 55 \$9.25 per hour on and after December 31, 2020;
- 56 \$10.50 per hour on and after December 31, 2021;

1 \$11.50 per hour on and after December 31, 2022;
2 \$12.50 per hour on and after December 31, 2023.
3 Beginning on December thirty-first, two thousand twenty-four, the cash
4 wage payable to a food service worker or service worker under this para-
5 graph shall be not less than the wage established pursuant to paragraph
6 (c) of subdivision one of this section.

7 § 3. Subdivision 2 of section 653 of the labor law, as added by chap-
8 ter 14 of the laws of 2000, is amended to read as follows:

9 (2) The commissioner shall, within six months after enactment of any
10 change in the statutory minimum wage set forth in subdivision one of
11 section six hundred fifty-two of this article, appoint a wage board to
12 inquire and report and recommend any changes to wage orders governing
13 wages payable to food service workers. Such wage board shall be estab-
14 lished consistent with the provisions of subdivision one of section six
15 hundred fifty-five of this article, except the representatives of the
16 employees shall be selected upon the nomination of the state American
17 Federation of Labor/Congress of Industrial Organizations; and provided,
18 further, that the representatives of the employers shall be selected
19 upon the nomination of the New York State Business Council. [~~Any wage~~
20 ~~order authorizing a lesser wage than the previously and statutorily~~
21 ~~mandated minimum wage for such employees shall be reviewed by the wage~~
22 ~~board to ascertain at what level such wage order is sufficient to~~
23 ~~provide adequate maintenance and to protect the health and livelihood of~~
24 ~~employees subject to such a wage order after a statutory increase in the~~
25 ~~mandated minimum wage.] Notwithstanding section six hundred fifty-five
26 of this article, a wage order under this subdivision shall not authorize
27 a lesser wage than the previously and statutorily mandated minimum wage
28 for such employees.~~

29 § 4. This act shall take effect immediately.