

1 H.646

2 Introduced by Representative Killacky of South Burlington

3 Referred to Committee on

4 Date:

5 Subject: Labor; employment practices; wages

6 Statement of purpose of bill as introduced: This bill proposes to require a
7 study of altering or eliminating the tipped wage and the subminimum wage for
8 students and a study of the wage and hour laws for agricultural workers. This
9 bill also proposes to make technical changes to Vermont's wage and hour laws
10 in order to modernize the statutory language and to repeal or amend obsolete
11 provisions.

12 An act relating to various studies regarding the minimum wage and
13 modernizing Vermont's wage and hour laws

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 * * * Studies * * *

16 Sec. 1. TIPPED AND STUDENT MINIMUM WAGE STUDY

17 COMMITTEE; REPORT

18 (a) Creation. There is created the Tipped and Student Minimum Wage

19 Study Committee to examine the effects of altering or eliminating the basic

1 wage rate for tipped employees in Vermont and of eliminating the
2 subminimum wage for secondary school students during the school year.

3 (b) Membership. The Committee shall be composed of the following
4 members:

5 (1) one member of the House appointed by the Speaker of the House;

6 (2) one member of the Senate appointed by the Committee on

7 Committees;

8 (3) the Commissioner of Labor or designee;

9 (4) the Commissioner for Children and Families or designee;

10 (5) one member representing employers in the food service or
11 hospitality industry, appointed by the Speaker of the House; and

12 (6) one member representing tipped workers in the food service or
13 hospitality industry, appointed by the Committee on Committees.

14 (c) Powers and duties. The Committee shall study the effects of altering or
15 eliminating the basic wage rate for tipped employees and of eliminating the
16 subminimum wage for secondary school students during the school year,
17 including the following issues:

18 (1) the impact in states that have eliminated their tipped wage on:

19 (A) jobs, prices, and the state economy; and

20 (B) the welfare of tipped workers, women, and working families with
21 children;

1 (2) the impact in states that have increased their tipped wage during the
2 last 10 years on:

3 (A) jobs, prices, and the state economy; and

4 (B) the welfare of tipped workers, women, and working families with
5 children;

6 (3) the impact in states that have decoupled their tipped wage from the
7 standard minimum wage during the last 10 years on:

8 (A) jobs, prices, and the state economy; and

9 (B) the welfare of tipped workers, women, and working families with
10 children;

11 (4) the projected impact in Vermont of altering or eliminating the basic
12 wage rate for tipped employees on:

13 (A) jobs, prices, and the State economy; and

14 (B) the welfare of tipped workers, women, and working families with
15 children; and

16 (5) the projected impact in Vermont of eliminating the subminimum
17 wage for secondary school students on:

18 (A) jobs, prices, and the State economy; and

19 (B) the welfare of individuals under 22 years of age.

1 (d) Assistance. The Committee shall have the administrative, technical,
2 and legal assistance of the Office of Legislative Council and the Joint Fiscal
3 Office.

4 (e) Report. On or before December 15, 2020, the Committee shall submit a
5 written report to the House Committee on General, Housing, and Military
6 Affairs and the Senate Committee on Economic Development, Housing and
7 General Affairs with its findings and recommendations, if any, for legislative
8 action related to Vermont's basic wage for tipped employees and subminimum
9 wage for secondary school students.

10 (f) Meetings.

11 (1) The Commissioner of Labor shall call the first meeting of the
12 Committee to occur on or before September 15, 2020.

13 (2) The Committee shall select a chair from among its members at the
14 first meeting.

15 (3) A majority of the membership shall constitute a quorum.

16 (4) The Committee shall cease to exist on January 30, 2021.

17 (g) Compensation and reimbursement.

18 (1) For attendance at meetings during adjournment of the General
19 Assembly, a legislative member of the Committee serving in his or her
20 capacity as a legislator shall be entitled to per diem compensation and
21 reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than

1 six meetings. These payments shall be made from monies appropriated to the
2 General Assembly.

3 (2) Members of the Committee who are not employees of the State of
4 Vermont and who are not otherwise compensated or reimbursed for their
5 attendance shall be entitled to per diem compensation and reimbursement
6 of expenses as permitted under 32 V.S.A. § 1010 for not more than
7 six meetings. These payments shall be made from monies appropriated to the
8 General Assembly.

9 Sec. 2. MINIMUM WAGE FOR AGRICULTURAL WORKERS;

10 WORKING GROUP; REPORT

11 (a) Creation. There is created the Agricultural Minimum Wage Working
12 Group to examine the wage and hour laws for agricultural workers.

13 (b) Membership. The Working Group shall be composed of the following
14 members:

15 (1) one member of the House appointed by the Speaker of the House;

16 (2) one member of the Senate appointed by the Committee on

17 Committees;

18 (3) The Secretary of Agriculture or designee; and

19 (4) The Commissioner of Labor or designee.

20 (c) Powers and duties. The Working Group shall study the wage and hour
21 laws for agricultural workers, including the following issues:

1 (1) the overlapping legal requirements of the federal Fair Labor
2 Standards Act and Vermont's wage and hour laws with respect to agricultural
3 employees and employers;

4 (2) particular issues and challenges related to federal and State wage and
5 hour laws that Vermont's agricultural employees and employers face; and

6 (3) how other states have addressed similar issues and challenges in
7 their wage and hour laws.

8 (d) Assistance. The Working Group shall have the administrative,
9 technical, and legal assistance of the Office of Legislative Council.

10 (e) Report. On or before December 15, 2020, the Working Group shall
11 submit a written report to the House Committees on Agriculture and Forestry
12 and on General, Housing, and Military Affairs and the Senate Committees on
13 Agriculture and on Economic Development, Housing and General Affairs with
14 its findings and any recommendations for legislative action.

15 (f) Meetings.

16 (1) The member from the House shall call the first meeting of the
17 Working Group to occur on or before September 15, 2020.

18 (2) The Committee shall select a chair from among its members at the
19 first meeting.

20 (3) A majority of the membership shall constitute a quorum.

21 (4) The Working Group shall cease to exist on January 30, 2021.

1 (g) Compensation and reimbursement. For attendance at meetings during
2 adjournment of the General Assembly, a legislative member of the Working
3 Group serving in his or her capacity as a legislator shall be entitled to per diem
4 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
5 not more than four meetings. These payments shall be made from monies
6 appropriated to the General Assembly.

7 * * * Amendments to Wage and Hour Laws * * *

8 Sec. 3. 21 V.S.A. § 341 is amended to read:

9 § 341. DEFINITIONS

10 As used in this subchapter:

11 * * *

12 (2) “Employer” means any person ~~having employees in his or her~~
13 ~~service~~ that employs one or more employees.

14 (3) “Commissioner” means the Commissioner of Labor ~~or designee.~~

15 * * *

16 Sec. 4. 21 V.S.A. § 342 is amended to read:

17 § 342. WEEKLY PAYMENT OF WAGES

18 (a)(1) Any employer having one or more employees that is doing ~~and~~
19 ~~transacting~~ business within the State shall pay each week, in lawful money or
20 checks, the wages earned by each employee to a day not more than six days
21 prior to the date of such payment.

1 (2) ~~After giving written notice to the employee or employees~~
2 Notwithstanding subdivision (1) of this subsection, any employer having ~~an~~
3 ~~employee or one or more employees that is doing and transacting~~ business
4 within the State may, ~~notwithstanding subdivision (1) of this subsection~~ either:

5 (A) after giving notice to each employee, pay biweekly or
6 semimonthly in lawful money or checks each employee the wages earned by
7 the employee to a day not more than six days prior to the date of the payment.
8 If a; or

9 (B) pursuant to the terms of a collective bargaining agreement so
10 provides, ~~the payment may be made~~ pay any employee who is subject to that
11 agreement the wages earned by the employee to a day not more than 13 days
12 prior to the date of payment.

13 (3)(A) A school district employee may elect in writing to have a set
14 amount or set percentage of his or her after-tax wages withheld by the school
15 district in a district-held bank account each pay period. The percentage or
16 amount withheld shall be determined by the employee.

17 (B) At the option of the employee, the school district shall disburse
18 the funds to the employee in either a single payment at the time the employee
19 receives his or her final paycheck of the school year, or in equal weekly or
20 biweekly sums beginning at the end of the school year.

1 (C)(i) The school district shall disburse funds from the account in any
2 sum as requested by the employee and, at the end of the school year or at the
3 employee's option over the course of the period between the current and next
4 school year, or upon separation from employment, shall remit to the employee
5 any remaining funds, including interest earnings, held in the account.

6 (ii) For employees within a bargaining unit organized pursuant to
7 either chapter 22 of this title or 16 V.S.A. chapter 57, the school district shall
8 implement this election in a manner consistent with the provisions of this
9 subdivision and as determined through negotiations under those chapters.

10 (iii) For employees not within a bargaining unit, the school district
11 shall, ~~in a manner consistent with this subdivision,~~ determine the manner in
12 which to implement the provisions of this subdivision.

13 (b) An employee who:

14 (1) voluntarily leaves employment shall be paid on the last regular pay
15 day, or if there is no regular pay day, on the following Friday;

16 (2) is discharged from employment shall be paid within 72 hours of
17 discharge;

18 (3) is absent from his or her regular place of employment on the
19 employer's regular scheduled date of wages or salary payment shall be entitled
20 to payment upon demand.

1 (c) With the written authorization of an employee, an employer may pay
2 wages due the employee by any of the following methods:

3 (1) Deposit through electronic funds transfer or ~~other~~ direct deposit
4 ~~systems~~ to a checking, savings, or other deposit account maintained by or for
5 the employee in any financial institution within or ~~without~~ outside the State.

6 (2) Credit to a payroll card account, other than a checking, savings, or
7 other deposit account described in subdivision (1) of this subsection, that is
8 directly or indirectly established by an employer in a federally insured
9 depository institution to which electronic fund transfers of the employee's
10 wages, salary, or other ~~employee~~ compensation is made on a recurring basis,
11 ~~other than a checking, savings, or other deposit account described in~~
12 ~~subdivision (1) of this subsection,~~ provided all the following:

13 (A) The employer provides the employee written disclosure in plain
14 language, in at least 10-point type of both the following:

15 (i) All the employee's wage payment options.

16 (ii) The terms and conditions of the payroll card account option,
17 including a complete list of all known fees that may be deducted from the
18 employee's payroll card account by the employer or the card issuer and
19 whether third parties may assess fees in addition to the fees assessed by the
20 employer or issuer.

1 (B) ~~Copies of the written disclosures required by subdivisions (A)~~
2 ~~and (F) of this subdivision (c)(2) and by subsection (d) of this section shall be~~
3 ~~provided to the employee in the employee's primary language or in a language~~
4 ~~the employee understands.~~

5 ~~(C)~~ The employee voluntarily consents in writing to payment of
6 wages by payroll card account after receiving the disclosures described in
7 subdivision (A) of this subdivision (c)(2), and ~~this~~ his or her consent is not a
8 condition of hire or continued employment.

9 ~~(D)~~(C) The employer ensures that the payroll card account provides
10 that during each pay period, the employee has at least three free withdrawals
11 from the payroll card, one of which permits withdrawal of the full amount of
12 the balance at a federally insured depository institution or other location
13 convenient to the place of employment.

14 ~~(E)~~(D) None of the employer's costs associated with the payroll card
15 account are passed on to the employee, and the employer ~~shall~~ does not receive
16 any financial remuneration for using the pay card at the employee's expense.

17 ~~(F)~~(E)(i) At least 21 days before any change takes effect, the
18 employer provides the employee with written notice in plain language, in at
19 least 10 point type, of the following:

20 (I) any change to any of the terms and conditions of the payroll
21 card account, including any changes in the itemized list of fees;

1 (II) the employee's right to discontinue receipt of wages by a
2 payroll card account at any time and without penalty.

3 (ii) The employer may not charge the employee any additional
4 fees until the employer has notified the employee in writing of the changes.

5 ~~(G)~~(F) The employer provides the employee the option to discontinue
6 receipt of wages by a payroll card account at any time and without penalty to
7 the employee.

8 ~~(H)~~(G) The payroll card issued to the employee shall be a branded-
9 type payroll card that complies with both the following:

10 (i) Can be used at a PIN-based or a signature-based outlet.

11 (ii) The payroll card agreement prevents withdrawals in excess of
12 the account balance and to the extent possible protects against the account
13 being overdrawn.

14 ~~(I)~~(H) The employer ensures that the payroll card account provides
15 one free replacement payroll card per year at no cost to the employee before
16 the card's expiration date. A replacement card need not be provided if the card
17 has been inactive for a period of at least 12 months or the employee is no
18 longer employed by the employer.

19 ~~(J)~~(I) A nonbranded payroll card may be issued for temporary
20 purposes and shall be valid for no more than 60 days.

1 ~~(K)~~(J) The payroll card account shall not be linked to any form of
2 credit, including a loan against future pay or a cash advance on future pay.

3 ~~(L)~~(K) The employer shall not charge the employee an initiation,
4 loading, or other participatory fee to receive wages payable in an electronic
5 fund transfer to a payroll card account, with the exception of the cost required
6 to replace a lost, stolen, or damaged payroll card.

7 ~~(M)~~(L) The employer shall ensure that the payroll card account
8 provides to the employee, ~~upon the employee's written or oral request,~~ one free
9 written transaction history each month which includes all deposits,
10 withdrawals, deductions, or charges by any entity from or to the employee's
11 payroll card account for the preceding 60 days. The employer shall also ensure
12 that the account allows the employee to elect to receive the monthly
13 transaction history by regular mail, electronic mail, or in another digital
14 format.

15 (d)(1) If a payroll card account is established with a financial institution as
16 an account that is individually owned by the employee, the employer's
17 obligations and the protections afforded under subsection (c) of this section
18 shall cease 30 days after the employer-employee relationship ends and the
19 employee has been paid his or her final wages.

20 (2) Upon the termination of the relationship between the employer and
21 the employee who owns the individual payroll card account:

1 (A) the employer shall notify the financial institution of any changes
2 in the relationship between the employer and employee; and

3 (B) the financial institution holding the individually owned payroll
4 card account shall provide the employee with a written statement in plain
5 language describing a full list of the fees and obligations the employee might
6 incur by continuing a relationship with the financial institution.

7 (e) The Department of Financial Regulation may adopt rules to implement
8 subsection (c) of this section.

9 (f) The employer shall provide copies of the written disclosures required by
10 subdivisions (A) and (F) of subdivision (c)(2) and by subsection (d) of this
11 section to the employee in the employee's primary language or in a language
12 the employee understands.

13 Sec. 5. 21 V.S.A. § 342a is amended to read:

14 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

15 * * *

16 (c) If after the investigation wages are found to be due, the Commissioner
17 shall attempt to settle the matter between the employer and employee. If the
18 attempt fails, the Commissioner shall issue a written determination and order
19 for collection, which shall specify the facts and the conclusions upon which the
20 determination is based. The Department shall collect from the employer the
21 amounts due and remit them to the employee. Notice of the determination and

1 the order for collection to the employer shall be provided to the prevailing
2 party by regular mail and to the other party by certified mail or service, or if
3 wages are due in an amount that is less than the amount claimed notice shall be
4 provided to all interested parties by certified mail or service.

5 * * *

6 (e) Within 30 days after the date of the ~~collection order~~ determination, the
7 employer or employee may file an appeal from the determination to a
8 departmental administrative law judge. The appeal shall, after notice to the
9 employer and employee, be heard by the administrative law judge within a
10 reasonable time. The administrative law judge shall review the complaint de
11 novo, and after a hearing, the determination and, if applicable, order for
12 collection shall be sustained, modified, or reversed by the administrative law
13 judge. Prompt notice in writing of the decision of the administrative law judge
14 and the reasons for it shall be given to all interested parties.

15 * * *

16 Sec. 6. 21 V.S.A. § 343 is amended to read:

17 § 343. FORM OF PAYMENT

18 An employer shall not pay employees with any form of evidence of
19 indebtedness, including ~~all~~ scrip, vouchers, due bills, or store orders, unless ~~the~~
20 ~~employer is in compliance with one or both of the following:~~

1 (1) The employer is a cooperative corporation in which the employee is
2 a stockholder, in which case, the cooperative corporation shall, upon request of
3 ~~any shareholding~~ the employee, pay ~~the shareholding employee~~ him or her as
4 provided in section 342 of this title.

5 (2) Payment is made by check as defined in Title 9A ~~or by an electronic~~
6 ~~fund transfer as provided in section 342 of this title.~~

7 Sec. 7. 21 V.S.A. § 344 is amended to read:

8 § 344. ASSIGNMENT OF FUTURE WAGES

9 (a) An assignment of future wages payable ~~under the provisions of~~
10 pursuant to section 342 of this title subchapter shall not be valid, if it is made
11 or procured to be made to:

12 (1) the employer from whom ~~such~~ the wages are to become due; ~~or~~

13 (2) ~~to anyone~~ any person in behalf of ~~such~~ the employer; ~~or if made or~~
14 ~~procured to be made to anyone~~ for the purpose of relieving ~~such~~ the employer
15 from the obligation to pay under the provisions of section 342 of this
16 subchapter.

17 (b) ~~Such~~ An employer shall not require ~~an agreement from~~ an employee to
18 agree, as a condition of employment, to accept wages at any other period as a
19 ~~condition of employment~~ than as permitted pursuant to section 342 of this
20 subchapter.

1 Sec. 8. 21 V.S.A. § 345 is amended to read:

2 § 345. NONPAYMENT OF WAGES AND BENEFITS

3 (a) ~~Each~~ An employer who violates section 342, 343, 482, or 483 of this
4 title shall be fined not more than \$5,000.00. ~~Where~~ If the employer is a
5 corporation, the president or other officers who have control of the payment
6 operations of the corporation shall be considered employers and liable to the
7 employee for actual wages due when the officer has willfully ~~and without good~~
8 ~~cause~~ participated in knowing violations of this ~~chapter~~ subchapter.

9 (b) In addition to any other penalty or punishment ~~otherwise~~ prescribed by
10 law, any employer who, pursuant to an oral or written employment agreement,
11 is required to provide benefits to an employee shall be liable to the employee
12 for actual damages caused by the failure to pay for the benefits, and where the
13 failure to pay is knowing and willful and continues for 30 days after the
14 payments are due shall be assessed ~~a civil~~ an administrative penalty by the
15 Commissioner of not more than \$5,000.00.

16 (c) The Commissioner may enforce collection of the fines assessed under
17 this section in the Civil Division of the Superior Court.

18 Sec. 9. 21 V.S.A. § 382 is amended to read:

19 § 382. ~~COVERAGE~~

20 ~~Employers employing two employees or more are covered by this~~
21 ~~subchapter.~~ [Repealed.]

1 Sec. 10. 21 V.S.A. § 383 is amended to read:

2 § 383. DEFINITIONS

3 ~~Terms used in this subchapter have the following meanings, unless a~~
4 ~~different meaning is clearly apparent from the language or context~~ As used in
5 this subchapter:

6 (1) “Commissioner;” means the Commissioner of Labor or designee;

7 (2) “Employee;” means any individual employed or permitted to work
8 by an employer except:

9 (A) any individual employed in agriculture;

10 (B) any individual employed in domestic service in or about a private
11 home;

12 (C) any individual employed by the United States;

13 (D) any individual employed in the activities of a public supported
14 nonprofit organization, except laundry employees, nurses’ aides, or practical
15 nurses;

16 (E) any individual employed in a bona fide executive, administrative,
17 or professional capacity;

18 (F) any individual making home deliveries of newspapers or
19 advertising;

20 (G) ~~taxi-cab~~ taxicab drivers;

21 (H) outside salespersons; and

1 (I) secondary school students working during all or any part of the
2 school year or regular vacation periods. As used in this subdivision (2)(I),
3 “regular vacation periods” does not include the period between two successive
4 academic years.

5 (3) “Employer” means any person that employs two or more employees.

6 ~~(3)~~(4) “Occupation,” means an industry, trade, or business, or branch
7 thereof, or a class of work in which workers are gainfully employed.

8 ~~(4) [Repealed.]~~

9 Sec. 11. 21 V.S.A. § 384 is amended to read:

10 § 384. EMPLOYMENT; WAGES

11 (a)(1) ~~An employer shall not employ any employee at a rate of less than~~
12 ~~\$9.15. Beginning on January 1, 2016, an employer shall not employ any~~
13 ~~employee at a rate of less than \$9.60. Beginning on January 1, 2017, an~~
14 ~~employer shall not employ any employee at a rate of less than \$10.00.~~
15 ~~Beginning on January 1, 2018, an employer shall not employ any employee at~~
16 ~~a rate of less than \$10.50, and beginning on January 1, 2019 and on each~~
17 ~~subsequent January 1, the minimum wage rate shall be increased by~~
18 ~~five percent or the percentage increase of the Consumer Price Index, CPI-U,~~
19 ~~U.S. city average, not seasonally adjusted, or successor index, as calculated by~~
20 ~~the U.S. Department of Labor or successor agency for the 12 months preceding~~
21 ~~the previous September 1, whichever is smaller, but in.~~ In no event shall the

1 minimum wage be decreased. The minimum wage shall be rounded off to the
2 nearest \$0.01.

3 (2) An employer in the hotel, motel, tourist place, and restaurant
4 industry shall not employ a service or tipped employee at a basic wage rate less
5 than one-half the minimum wage. As used in this ~~subsection~~ subdivision, “a
6 service or tipped employee” means an employee of a hotel, motel, tourist
7 place, or restaurant who customarily and regularly receives more than \$120.00
8 per month in tips for direct and personal customer service.

9 (3) If the minimum wage rate established by the U.S. government is
10 greater than the rate established for Vermont pursuant to subdivision (1) of this
11 subsection for any year, the minimum wage rate for that year shall be the rate
12 established by the U.S. government.

13 (b) Notwithstanding subsection (a) of this section, an employer shall not
14 pay an employee less than one and one-half times the regular wage rate for any
15 work done by the employee in excess of 40 hours during a workweek.

16 However, this subsection shall not apply to:

17 (1) Employees of any retail or service establishment. A “retail or
18 service establishment” means an establishment 75 percent of whose annual
19 volume of sales of goods or services, or of both, is not for resale and is
20 recognized as retail sales or services in the particular industry.

1 (2) Employees of an establishment which is an amusement or
2 recreational establishment, if:

3 (A) it does not operate for more than seven months in any calendar
4 year; or

5 (B) during the preceding calendar year its average receipts for any six
6 months of that year were not more than one-third of its average receipts for the
7 other six months of the year.

8 (3) Employees of an establishment which is a hotel, motel, or restaurant.

9 (4) Employees of hospitals, public health centers, nursing homes,
10 maternity homes, therapeutic community residences, and residential care
11 homes as those terms are defined in Title 18, provided:

12 (A) the employer pays the employee on a biweekly basis; and

13 (B) the employer files an election to be governed by this section with
14 the Commissioner; and

15 (C) the employee receives not less than one and one-half times the
16 regular wage rate for any work done by the employee:

17 (i) in excess of eight hours for any workday; or

18 (ii) in excess of 80 hours for any biweekly period.

19 (5) Those employees of a business engaged in the transportation of
20 persons or property to whom the overtime provisions of the federal Fair Labor

1 Standards Act do not apply, ~~but~~. However, this subsection shall apply to all
2 other employees of such businesses.

3 (6) Those employees of a political subdivision of this State.

4 (7) State employees who are covered by the federal Fair Labor
5 Standards Act.

6 (c) ~~However, an~~ An employer may deduct from the rates required in
7 subsections (a) and (b) of this section:

8 (1) the amounts for board, lodging, apparel, rent, or utilities paid or
9 furnished to an employee; or

10 (2) other items or services or such other conditions or circumstances as
11 may be usual in a particular employer-employee relationship, including
12 gratuities as determined by the wage order made under this subchapter.

13 (d) For the purposes of earned sick time, an employer shall comply with the
14 provisions required under subchapter 4B of this chapter.

15 Sec. 12. 21 V.S.A. § 385 is amended to read:

16 § 385. ADMINISTRATION

17 The Commissioner and the Commissioner's authorized representatives have
18 full power and authority for all the following:

19 * * *

20 (4) ~~To recommend and~~ determine the amount of deductions for board,
21 lodging, or other items or services supplied by the employer or any other

1 conditions or circumstances as may be usual in a particular employer-
2 employee relationship, ~~including gratuities~~; provided, however, that in no case
3 shall the total remuneration received by an employee, including wages,
4 ~~gratuities~~, board, lodging, or other items or services supplied by the employer,
5 ~~including gratuities~~, be less than the minimum wage ~~rate set forth in~~
6 established pursuant to section 384 of this title. No deduction may be made for
7 the care, cleaning, or maintenance of required apparel. No deduction for
8 required apparel shall be made without the employee's express written
9 authorization and the deduction shall not:

10 (A) reduce the total remuneration received by an employee below the
11 ~~hourly~~ minimum wage established pursuant to section 384 of this title;

12 (B) include any administrative fees or charges; or

13 (C) amend, nullify, or violate the terms and conditions of any
14 collective bargaining agreement.

15 (5) To recommend a suitable scale of rates for learners, apprentices, and
16 persons with disabilities, which may be less than the regular minimum wage
17 rate for experienced workers without disabilities.

18 Sec. 13. 21 V.S.A. § 386 is amended to read:

19 § 386. INVESTIGATIONS

20 The Commissioner may, and on a petition of 50 or more residents of the
21 State shall, ~~make an investigation of~~ investigate any industry, business,

1 occupation, or employment ~~as set forth in~~, pursuant to the provisions of section
2 385 of this title, to ascertain whether any violations of this subchapter have
3 occurred.

4 Sec. 14. 21 V.S.A. § 391 is amended to read:

5 § 391. ~~MODIFICATION OF WAGE ORDERS~~

6 ~~The Commissioner with the approval of the Governor may from time to~~
7 ~~time propose modifications of or additions to any regulations included in any~~
8 ~~minimum wage order which the Commissioner deems appropriate. [Repealed.]~~

9 Sec. 15. 21 V.S.A. § 392 is amended to read:

10 § 392. ~~COURT PROCEEDINGS~~

11 ~~If any employer covered by a wage order has failed to comply with the~~
12 ~~wage order within 14 days after receiving notification of the violation, the~~
13 ~~Commissioner shall take court action to enforce the order. [Repealed.]~~

14 Sec. 16. 21 V.S.A. § 393 is amended to read:

15 § 393. EMPLOYERS' RECORDS; NOTICE

16 ~~(a) Every employer, subject to the provisions of this subchapter or of any~~
17 ~~regulation or order issued thereunder, shall keep a true and accurate record of~~
18 ~~the hours worked by each employee and of the wages paid to him or her and~~
19 ~~shall furnish to the Commissioner upon demand a sworn statement of the same.~~
20 ~~Such~~ The records shall be open to inspection by the Commissioner, ~~his or her~~
21 ~~deputy~~, or any authorized agent of the Department at any reasonable time.

1 ~~(b) Every employer subject to the provisions of this subchapter or of any~~
2 ~~regulation or order issued under the provisions thereof shall keep a copy of~~
3 ~~them posted~~ post notice of the provisions of this subchapter in a form provided
4 by the Commissioner in a conspicuous place in the area where employees are
5 employed. ~~The Commissioner shall furnish copies of such orders and~~
6 ~~regulations to employers without charge.~~

7 Sec. 17. 21 V.S.A. § 394 is amended to read:

8 § 394. PENALTIES

9 (a) Any employer, ~~that is~~ subject to this subchapter or any regulations or
10 ~~orders issued thereunder, or any of the employer's agents or the officer or~~
11 ~~agent of any corporation~~ an employer, who pays ~~or~~ permits to be paid, or
12 agrees to pay to any employee ~~engaged in any industry or occupation~~ less than
13 the applicable rate to which the employee is entitled ~~under~~ pursuant to this
14 subchapter, shall be ~~fined~~ assessed an administrative penalty of not more than
15 \$100.00 for each day the employee is paid less than the rate required ~~under~~
16 pursuant to this subchapter.

17 (b) ~~Any~~ An employer, ~~or any of the employer's agents or the~~ an officer or
18 ~~agent of any corporation who fails to keep the records required under this~~
19 ~~subchapter or refuses to permit the Commissioner to enter the place of business~~
20 ~~or who fails to furnish the records to the Commissioner upon demand~~ an

1 employer, shall be ~~fined~~ assessed an administrative penalty of not more than
2 \$100.00 for any of the following:

3 (1) failing to keep the records required pursuant to this subchapter;

4 (2) refusing to permit the Commissioner to enter the place of business;

5 or

6 (3) failing to furnish records to the Commissioner upon demand.

7 Sec. 18. 21 V.S.A. § 395 is amended to read:

8 § 395. CIVIL ACTIONS

9 ~~If any~~ An employee who is paid by an employer less than the applicable
10 wage rate to which the employee is entitled ~~under~~ pursuant to this subchapter,
11 ~~the employee~~ shall recover, in a civil action, twice the amount of the minimum
12 wage established pursuant to section 384 of this subchapter less any amount
13 actually paid by the employer, together with costs and reasonable attorney's
14 fees, ~~and any~~. An agreement between an employer and an employee to work
15 for less than the wage rates ~~is no~~ established pursuant to section 384 of this
16 subchapter shall not be a defense to the action.

17 Sec. 19. 21 V.S.A. § 396 is amended to read:

18 § 396. APPEALS FROM COMMISSIONER'S DECISIONS

19 (a) Appeals to Superior Court ~~wherein a civil action between the parties~~
20 ~~would be triable~~. Any person aggrieved by ~~any~~ a decision of the
21 Commissioner may appeal to the Superior Court.

1 (b) Procedure. The Commissioner shall forward to the Court the record of
2 the decision on appeal. The court shall ~~direct the record in the matter appealed~~
3 ~~from to be laid before it, hear the evidence, and make such order approving in~~
4 ~~whole or in part or setting aside in whole or in part the decision appealed from~~
5 ~~as justice may require~~ consider the record and any evidence presented, may
6 approve or set aside the Commissioner's decision in whole or in part, and may
7 refer any matter or issue arising in the proceedings to the Commissioner for
8 further consideration. ~~However, in~~ In no case shall such an appeal operate as a
9 ~~supersedeas or~~ stay unless the Commissioner or the court to which ~~such the~~
10 appeal is taken ~~shall so order~~ orders.

11 (c) Certifying record. ~~An order of court to send up~~ The Commissioner may
12 provide to the court the record ~~may be complied with~~ by filing either the
13 original papers or duly certified copies ~~thereof of them, or of such portions~~
14 ~~thereof as the order may specify,~~ together with a certified statement of ~~such~~
15 any other facts as that show the grounds of the action appealed from.

16 (d) Hearing. The court may take evidence or may appoint a referee to take
17 ~~such~~ evidence as it may direct ~~and to report the same with findings of fact.~~ A
18 referee that is appointed shall submit a report to the court of all evidence taken
19 together with findings of fact.

20 (e) Costs. In any proceedings under this subchapter, the court may ~~make~~
21 ~~such~~ award of any costs as may seem it determines to be equitable and just.

1 (f) Appeal, Supreme Court. ~~Appeal from the~~ The decision of the Superior
2 Court may be ~~had~~ appealed to the Supreme Court.

3 * * * Effective Date * * *

4 Sec. 10. EFFECTIVE DATE

5 This act shall take effect on July 1, 2020.