

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred House Bill No. 270 entitled “An act relating to modernizing
4 Vermont’s wage and hour laws” respectfully reports that it has considered the
5 same and recommends that the bill be amended as follows:

6 First: By striking out Sec. 8, 21 V.S.A § 383, in its entirety and inserting in
7 lieu thereof a new Sec. 8 to read as follows:

8 Sec. 8. 21 V.S.A. § 383 is amended to read:

9 § 383. DEFINITIONS

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

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

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

16 (A) any individual employed in agriculture who is exempt from the
17 minimum wage and maximum hour requirements of the federal Fair Labor
18 Standards Act pursuant to 29 U.S.C. § 213(a)(6);

19 (B) any individual employed on a casual basis in domestic service in
20 or about a private home to provide babysitting services or to provide

1 companionship services to individuals who are unable to care for themselves
2 because of age, physical or mental condition, or illness;

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

4 (D) ~~any individual employed in the activities of a public supported~~
5 ~~nonprofit organization, except laundry employees, nurses' aides, or practical~~
6 ~~nurses; [Repealed.]~~

7 (E) any individual employed in a bona fide executive, administrative,
8 or professional capacity who is exempt from the minimum wage and maximum
9 hour requirements of the federal Fair Labor Standards Act pursuant to
10 29 U.S.C. § 213(a)(1);

11 (F) ~~any individual making home deliveries of newspapers or~~
12 ~~advertising; [Repealed.]~~

13 (G) ~~taxi cab drivers; [Repealed.]~~

14 (H) an outside salespersons salesperson who is exempt from the
15 minimum wage and maximum hour requirements of the federal Fair Labor
16 Standards Act pursuant to 29 U.S.C. § 213(a)(1); and

17 (I) ~~students working during all or any part of the school year or~~
18 ~~regular vacation periods. [Repealed.]~~

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

20 (4) “Occupation;” means an industry, trade, or business, or branch
21 thereof or a class of work in which workers are gainfully employed.

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

2 Second: By striking out Sec. 9, 21 V.S.A. § 384, in its entirety and

3 inserting in lieu thereof a new Sec. 9 to read as follows:

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

5 § 384. EMPLOYMENT; WAGES

6 (a)(1) An employer shall not employ any employee at a rate of less than
7 ~~\$10.96. Beginning on January 1, 2021, an employer shall not employ any~~
8 ~~employee at a rate of less than~~ \$11.75. Beginning on January 1, 2022, an
9 employer shall not employ any employee at a rate of less than \$12.55, and on
10 each subsequent January 1, the minimum wage rate shall be increased by five
11 percent or the percentage increase of the Consumer Price Index, CPI-U,
12 U.S. city average, not seasonally adjusted, or successor index, as calculated by
13 the U.S. Department of Labor or successor agency for the 12 months preceding
14 the previous September 1, whichever is smaller, but in no event shall the
15 minimum wage be decreased. The minimum wage shall be rounded off to the
16 nearest \$0.01.

17 (2)(A) An employer in the hotel, motel, tourist place, and restaurant
18 industry shall not employ a service or tipped employee at a basic wage rate less
19 than one-half the minimum wage.

20 (B) As used in this ~~subsection~~ subdivision (a)(2), “a service or tipped
21 employee” means an employee of a hotel, motel, tourist place, or restaurant

1 who customarily and regularly receives more than \$120.00 per month in tips
2 for direct and personal customer service. Beginning on January 1, 2023 and on
3 each subsequent January 1, the monthly amount of tips required to qualify as a
4 “service or tipped employee” pursuant to this subdivision (a)(2) shall be
5 increased by five percent or the percentage increase of the Consumer Price
6 Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as
7 calculated by the U.S. Department of Labor or successor agency for the
8 12 months preceding the previous September 1, whichever is smaller, but in no
9 event shall the amount be decreased. The amount shall be rounded off to the
10 nearest whole dollar.

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

15 (b) Notwithstanding subsection (a) of this section, an employer shall not
16 pay an employee less than one and one-half times the employee’s regular wage
17 rate for any work done by the employee in excess of 40 hours during a
18 workweek. However, this subsection shall not apply to:

19 (1)(A) Employees of any retail or service establishment, provided that:

20 (i) the regular rate of pay of the employee is at least one and one-
21 half times the rate set forth in subsection (a) of this section; and

1 (ii) at least one-half of the employee’s compensation each month
2 is earned in the form of commissions on goods or services.

3 (B) As used in this subdivision (b)(1):

4 (i) ~~A “retail~~ “Retail or service establishment” means an
5 establishment 75 percent of whose annual volume of sales of goods or services,
6 or of both, is not for resale and is recognized as retail sales or services in the
7 particular industry.

8 (ii) “Regular rate of pay” has the same meaning as in 29 U.S.C.
9 § 207.

10 (2) Employees of an establishment ~~which~~ that is an amusement or
11 recreational establishment, if:

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

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

17 (3) ~~Employees of an establishment that is a hotel, motel, or restaurant.~~

18 [Repealed.]

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

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

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

4 (C) the employee receives not less than one and one-half times the
5 employee's regular wage rate for any work done by the employee:

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

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

8 (5) ~~Those employees~~ Employees of a business engaged in the
9 transportation of persons or property to whom the overtime provisions of the
10 federal Fair Labor Standards Act do not apply, ~~but~~. However, this subsection
11 shall apply to all other employees of such businesses.

12 (6) ~~Those employees~~ Employees of a political subdivision of this State.

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

15 (8) Taxicab drivers.

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

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

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

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

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11 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE