



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4462

Introduced 02/03/04, by Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

820 ILCS 105/4a

from Ch. 48, par. 1004a

Amends the Minimum Wage Law. Requires the Department of Labor to adopt rules defining and delimiting the exemption of administrative and professional employees from the general requirement that employment in excess of 40 hours per week be compensated at a rate not less than 1.5 times the regular rate. Provides that the Department's rules may not provide for a broader exemption than is provided in federal regulations. Effective immediately.

LRB093 20765 DRJ 46663 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Minimum Wage Law is amended by changing
5 Section 4a as follows:

6 (820 ILCS 105/4a) (from Ch. 48, par. 1004a)

7 Sec. 4a. (1) Except as otherwise provided in this Section,
8 no employer shall employ any of his employees for a workweek of
9 more than 40 hours unless such employee receives compensation
10 for his employment in excess of the hours above specified at a
11 rate not less than 1 1/2 times the regular rate at which he is
12 employed.

13 (2) The provisions of subsection (1) of this Section are
14 not applicable to:

15 A. Any salesman or mechanic primarily engaged in
16 selling or servicing automobiles, trucks or farm
17 implements, if he is employed by a nonmanufacturing
18 establishment primarily engaged in the business of selling
19 such vehicles or implements to ultimate purchasers.

20 B. Any salesman primarily engaged in selling trailers,
21 boats, or aircraft, if he is employed by a nonmanufacturing
22 establishment primarily engaged in the business of selling
23 trailers, boats, or aircraft to ultimate purchasers.

24 C. Any employer of agricultural labor, with respect to
25 such agricultural employment.

26 D. Any governmental body.

27 E. Any employee employed in a bona fide executive,
28 administrative or professional capacity, including any
29 radio or television announcer, news editor, or chief
30 engineer, as defined by or covered by the Federal Fair
31 Labor Standards Act of 1938, as now or hereafter amended,
32 or as defined by the Department pursuant to its authority

1 under this paragraph (E). For bona fide executive,
2 administrative, and professional employees of
3 not-for-profit corporations, the Director may, by
4 regulation, adopt a weekly wage rate standard lower than
5 that provided for executive, administrative, and
6 professional employees covered under the Fair Labor
7 Standards Act of 1938, as now or hereafter amended.

8 F. Any commissioned employee as described in paragraph
9 (i) of Section 7 of the Federal Fair Labor Standards Act of
10 1938 and rules and regulations promulgated thereunder, as
11 now or hereafter amended. Within 30 days after the
12 effective date of this amendatory Act of the 93rd General
13 Assembly, the Department shall adopt emergency rules, in
14 accordance with Section 5-45 of the Illinois
15 Administrative Procedure Act, defining or delimiting this
16 exemption in a manner that is substantially similar to that
17 found at Part 541 of Title 29 of the Code of Federal
18 Regulations on March 30, 2003. For purposes of the Illinois
19 Administrative Procedure Act, the adoption of rules to
20 implement this Section shall be considered an emergency and
21 necessary for the public interest, safety, and welfare.
22 Within 180 days after the effective date of this amendatory
23 Act of the 93rd General Assembly, the Department shall
24 define and delimit this exemption by rule. In no event
25 shall the Department's rules adopted pursuant to this
26 paragraph (E) provide for a broader exemption than that
27 found at Part 541 of Title 29 of the Code of Federal
28 Regulations on March 30, 2003.

29 G. Any employment of an employee in the stead of
30 another employee of the same employer pursuant to a
31 worktime exchange agreement between employees.

32 H. Any employee of a not-for-profit educational or
33 residential child care institution who (a) on a daily basis
34 is directly involved in educating or caring for children
35 who (1) are orphans, foster children, abused, neglected or
36 abandoned children, or are otherwise homeless children and

1 (2) reside in residential facilities of the institution and
2 (b) is compensated at an annual rate of not less than
3 \$13,000 or, if the employee resides in such facilities and
4 receives without cost board and lodging from such
5 institution, not less than \$10,000.

6 I. Any employee employed as a crew member of any
7 uninspected towing vessel, as defined by Section 2101(40)
8 of Title 46 of the United States Code, operating in any
9 navigable waters in or along the boundaries of the State of
10 Illinois.

11 (3) Any employer may employ any employee for a period or
12 periods of not more than 10 hours in the aggregate in any
13 workweek in excess of the maximum hours specified in subsection
14 (1) of this Section without paying the compensation for
15 overtime employment prescribed in subsection (1) if during that
16 period or periods the employee is receiving remedial education
17 that:

18 (a) is provided to employees who lack a high school
19 diploma or educational attainment at the eighth grade
20 level;

21 (b) is designed to provide reading and other basic
22 skills at an eighth grade level or below; and

23 (c) does not include job specific training.

24 (Source: P.A. 92-623, eff. 7-11-02.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.