

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 Sections 3 and 4 as follows:

6 (820 ILCS 105/3) (from Ch. 48, par. 1003)

7 Sec. 3. As used in this Act:

8 (a) "Director" means the Director of the Department of
9 Labor, and "Department" means the Department of Labor.

10 (b) "Wages" means compensation due to an employee by reason
11 of his employment, including allowances determined by the
12 Director in accordance with the provisions of this Act for
13 gratuities and, when furnished by the employer, for meals and
14 lodging actually used by the employee.

15 (c) "Employer" includes any individual, partnership,
16 association, corporation, limited liability company, business
17 trust, governmental or quasi-governmental body, or any person
18 or group of persons acting directly or indirectly in the
19 interest of an employer in relation to an employee, for which
20 one or more persons are gainfully employed on some day within a
21 calendar year. An employer is subject to this Act in a calendar
22 year on and after the first day in such calendar year in which
23 he employs one or more persons, and for the following calendar

1 year.

2 (d) "Employee" includes any individual permitted to work by
3 an employer in an occupation, but does not include any
4 individual permitted to work:

5 (1) For an employer employing fewer than 4 employees
6 exclusive of the employer's parent, spouse or child or
7 other members of his immediate family.

8 (2) As an employee employed in agriculture or
9 aquaculture (A) if such employee is employed by an employer
10 who did not, during any calendar quarter during the
11 preceding calendar year, use more than 500 man-days of
12 agricultural or aquacultural labor, (B) if such employee is
13 the parent, spouse or child, or other member of the
14 employer's immediate family, (C) if such employee (i) is
15 employed as a hand harvest laborer and is paid on a piece
16 rate basis in an operation which has been, and is
17 customarily and generally recognized as having been, paid
18 on a piece rate basis in the region of employment, (ii)
19 commutes daily from his permanent residence to the farm on
20 which he is so employed, and (iii) has been employed in
21 agriculture less than 13 weeks during the preceding
22 calendar year, (D) if such employee (other than an employee
23 described in clause (C) of this subparagraph): (i) is 16
24 years of age or under and is employed as a hand harvest
25 laborer, is paid on a piece rate basis in an operation
26 which has been, and is customarily and generally recognized

1 as having been, paid on a piece rate basis in the region of
2 employment, (ii) is employed on the same farm as his parent
3 or person standing in the place of his parent, and (iii) is
4 paid at the same piece rate as employees over 16 are paid
5 on the same farm.

6 (3) In domestic service in or about a private home.

7 (4) As an outside salesman.

8 (5) As a member of a religious corporation or
9 organization.

10 (6) At an accredited Illinois college or university
11 employed by the college or university at which he is a
12 student who is covered under the provisions of the Fair
13 Labor Standards Act of 1938, as heretofore or hereafter
14 amended.

15 (7) For a motor carrier and with respect to whom the
16 U.S. Secretary of Transportation has the power to establish
17 qualifications and maximum hours of service under the
18 provisions of Title 49 U.S.C. or the State of Illinois
19 under Section 18b-105 (Title 92 of the Illinois
20 Administrative Code, Part 395 - Hours of Service of
21 Drivers) of the Illinois Vehicle Code.

22 The above exclusions from the term "employee" may be
23 further defined by regulations of the Director.

24 (e) "Occupation" means an industry, trade, business or
25 class of work in which employees are gainfully employed.

26 (f) "Gratuities" means voluntary monetary contributions to

1 an employee from a guest, patron or customer in connection with
2 services rendered.

3 (g) "Outside salesman" means an employee regularly engaged
4 in making sales or obtaining orders or contracts for services
5 where a major portion of such duties are performed away from
6 his employer's place of business.

7 (h) "Day camp" means a seasonal recreation program in
8 operation for no more than 16 weeks intermittently throughout
9 the calendar year, accommodating for profit or under
10 philanthropic or charitable auspices, 5 or more children under
11 18 years of age, not including overnight programs. The term
12 "day camp" does not include a "day care agency", "child care
13 facility" or "foster family home" as licensed by the Illinois
14 Department of Children and Family Services.

15 (Source: P.A. 94-1025, eff. 7-14-06.)

16 (820 ILCS 105/4) (from Ch. 48, par. 1004)

17 Sec. 4. (a)(1) Every employer shall pay to each of his
18 employees in every occupation wages of not less than \$2.30 per
19 hour or in the case of employees under 18 years of age wages of
20 not less than \$1.95 per hour, except as provided in Sections 5
21 and 6 of this Act, and on and after January 1, 1984, every
22 employer shall pay to each of his employees in every occupation
23 wages of not less than \$2.65 per hour or in the case of
24 employees under 18 years of age wages of not less than \$2.25
25 per hour, and on and after October 1, 1984 every employer shall

1 pay to each of his employees in every occupation wages of not
2 less than \$3.00 per hour or in the case of employees under 18
3 years of age wages of not less than \$2.55 per hour, and on or
4 after July 1, 1985 every employer shall pay to each of his
5 employees in every occupation wages of not less than \$3.35 per
6 hour or in the case of employees under 18 years of age wages of
7 not less than \$2.85 per hour, and from January 1, 2004 through
8 December 31, 2004 every employer shall pay to each of his or
9 her employees who is 18 years of age or older in every
10 occupation wages of not less than \$5.50 per hour, and from
11 January 1, 2005 through June 30, 2007 every employer shall pay
12 to each of his or her employees who is 18 years of age or older
13 in every occupation wages of not less than \$6.50 per hour, and
14 from July 1, 2007 through June 30, 2008 every employer shall
15 pay to each of his or her employees who is 18 years of age or
16 older in every occupation wages of not less than \$7.50 per
17 hour, and from July 1, 2008 through June 30, 2009 every
18 employer shall pay to each of his or her employees who is 18
19 years of age or older in every occupation wages of not less
20 than \$7.75 per hour, and from July 1, 2009 through June 30,
21 2010 every employer shall pay to each of his or her employees
22 who is 18 years of age or older in every occupation wages of
23 not less than \$8.00 per hour, and on and after July 1, 2010
24 every employer shall pay to each of his or her employees who is
25 18 years of age or older in every occupation wages of not less
26 than \$8.25 per hour.

1 (2) Unless an employee's wages are reduced under Section 6,
2 then in lieu of the rate prescribed in item (1) of this
3 subsection (a), an employer may pay an employee who is 18 years
4 of age or older, during the first 90 consecutive calendar days
5 after the employee is initially employed by the employer, a
6 wage that is not more than 50¢ less than the wage prescribed in
7 item (1) of this subsection (a); however, an employer shall pay
8 not less than the rate prescribed in item (1) of this
9 subsection (a) to:

10 (A) a day or temporary laborer, as defined in Section 5
11 of the Day and Temporary Labor Services Act, who is 18
12 years of age or older; and

13 (B) an employee who is 18 years of age or older and
14 whose employment is occasional or irregular and requires
15 not more than 90 days to complete.

16 (3) At no time shall the wages paid to any employee under
17 18 years of age be more than 50¢ less than the wage required to
18 be paid to employees who are at least 18 years of age under
19 item (1) of this subsection (a).

20 (b) No employer shall discriminate between employees on the
21 basis of sex or mental or physical handicap, except as
22 otherwise provided in this Act by paying wages to employees at
23 a rate less than the rate at which he pays wages to employees
24 for the same or substantially similar work on jobs the
25 performance of which requires equal skill, effort, and
26 responsibility, and which are performed under similar working

1 conditions, except where such payment is made pursuant to (1) a
2 seniority system; (2) a merit system; (3) a system which
3 measures earnings by quantity or quality of production; or (4)
4 a differential based on any other factor other than sex or
5 mental or physical handicap, except as otherwise provided in
6 this Act.

7 (c) Every employer of an employee engaged in an occupation
8 in which gratuities have customarily and usually constituted
9 and have been recognized as part of the remuneration for hire
10 purposes is entitled to an allowance for gratuities as part of
11 the hourly wage rate provided in Section 4, subsection (a) in
12 an amount not to exceed 40% of the applicable minimum wage
13 rate. The Director shall require each employer desiring an
14 allowance for gratuities to provide substantial evidence that
15 the amount claimed, which may not exceed 40% of the applicable
16 minimum wage rate, was received by the employee in the period
17 for which the claim of exemption is made, and no part thereof
18 was returned to the employer.

19 (d) No camp counselor who resides on the premises of a
20 seasonal camp of an organized not-for-profit corporation shall
21 be subject to the adult minimum wage if the camp counselor (1)
22 works 40 or more hours per week, and (2) receives a total
23 weekly salary of not less than the adult minimum wage for a
24 40-hour week. If the counselor works less than 40 hours per
25 week, the counselor shall be paid the minimum hourly wage for
26 each hour worked. Every employer of a camp counselor under this

1 subsection is entitled to an allowance for meals and lodging as
2 part of the hourly wage rate provided in Section 4, subsection
3 (a), in an amount not to exceed 25% of the minimum wage rate.

4 (e) A camp counselor employed at a day camp ~~of an organized~~
5 ~~not for profit corporation~~ is not subject to the adult minimum
6 wage if the camp counselor is paid a stipend on a onetime or
7 periodic basis and, if the camp counselor is a minor, the
8 minor's parent, guardian or other custodian has consented in
9 writing to the terms of payment before the commencement of such
10 employment.

11 (Source: P.A. 93-581, eff. 1-1-04; 94-1072, eff. 7-1-07;
12 94-1102, eff. 7-1-07.)