



Sen. Terry Link

Filed: 5/22/2008

09500HB4583sam002

LRB095 16440 RLC 51350 a

1 AMENDMENT TO HOUSE BILL 4583

2 AMENDMENT NO. _____. Amend House Bill 4583 by replacing
3 everything after the enacting clause with the following:

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

1 trust, governmental or quasi-governmental body, or any person
2 or group of persons acting directly or indirectly in the
3 interest of an employer in relation to an employee, for which
4 one or more persons are gainfully employed on some day within a
5 calendar year. An employer is subject to this Act in a calendar
6 year on and after the first day in such calendar year in which
7 he employs one or more persons, and for the following calendar
8 year.

9 (d) "Employee" includes any individual permitted to work by
10 an employer in an occupation, but does not include any
11 individual permitted to work:

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

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

1 which he is so employed, and (iii) has been employed in
2 agriculture less than 13 weeks during the preceding
3 calendar year, (D) if such employee (other than an employee
4 described in clause (C) of this subparagraph): (i) is 16
5 years of age or under and is employed as a hand harvest
6 laborer, is paid on a piece rate basis in an operation
7 which has been, and is customarily and generally recognized
8 as having been, paid on a piece rate basis in the region of
9 employment, (ii) is employed on the same farm as his parent
10 or person standing in the place of his parent, and (iii) is
11 paid at the same piece rate as employees over 16 are paid
12 on the same farm.

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

14 (4) As an outside salesman.

15 (5) As a member of a religious corporation or
16 organization.

17 (6) At an accredited Illinois college or university
18 employed by the college or university at which he is a
19 student who is covered under the provisions of the Fair
20 Labor Standards Act of 1938, as heretofore or hereafter
21 amended.

22 (7) For a motor carrier and with respect to whom the
23 U.S. Secretary of Transportation has the power to establish
24 qualifications and maximum hours of service under the
25 provisions of Title 49 U.S.C. or the State of Illinois
26 under Section 18b-105 (Title 92 of the Illinois

1 Administrative Code, Part 395 - Hours of Service of
2 Drivers) of the Illinois Vehicle Code.

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

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

7 (f) "Gratuities" means voluntary monetary contributions to
8 an employee from a guest, patron or customer in connection with
9 services rendered.

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

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

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

23 (820 ILCS 105/4) (from Ch. 48, par. 1004)

24 Sec. 4. (a) (1) Every employer shall pay to each of his
25 employees in every occupation wages of not less than \$2.30 per

1 hour or in the case of employees under 18 years of age wages of
2 not less than \$1.95 per hour, except as provided in Sections 5
3 and 6 of this Act, and on and after January 1, 1984, every
4 employer shall pay to each of his employees in every occupation
5 wages of not less than \$2.65 per hour or in the case of
6 employees under 18 years of age wages of not less than \$2.25
7 per hour, and on and after October 1, 1984 every employer shall
8 pay to each of his employees in every occupation wages of not
9 less than \$3.00 per hour or in the case of employees under 18
10 years of age wages of not less than \$2.55 per hour, and on or
11 after July 1, 1985 every employer shall pay to each of his
12 employees in every occupation wages of not less than \$3.35 per
13 hour or in the case of employees under 18 years of age wages of
14 not less than \$2.85 per hour, and from January 1, 2004 through
15 December 31, 2004 every employer shall pay to each of his or
16 her employees who is 18 years of age or older in every
17 occupation wages of not less than \$5.50 per hour, and from
18 January 1, 2005 through June 30, 2007 every employer shall pay
19 to each of his or her employees who is 18 years of age or older
20 in every occupation wages of not less than \$6.50 per hour, and
21 from July 1, 2007 through June 30, 2008 every employer shall
22 pay to each of his or her employees who is 18 years of age or
23 older in every occupation wages of not less than \$7.50 per
24 hour, and from July 1, 2008 through June 30, 2009 every
25 employer shall pay to each of his or her employees who is 18
26 years of age or older in every occupation wages of not less

1 than \$7.75 per hour, and from July 1, 2009 through June 30,
2 2010 every employer shall pay to each of his or her employees
3 who is 18 years of age or older in every occupation wages of
4 not less than \$8.00 per hour, and on and after July 1, 2010
5 every employer shall pay to each of his or her employees who is
6 18 years of age or older in every occupation wages of not less
7 than \$8.25 per hour.

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

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

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

23 (3) At no time shall the wages paid to any employee under
24 18 years of age be more than 50¢ less than the wage required to
25 be paid to employees who are at least 18 years of age under
26 item (1) of this subsection (a).

1 (b) No employer shall discriminate between employees on the
2 basis of sex or mental or physical handicap, except as
3 otherwise provided in this Act by paying wages to employees at
4 a rate less than the rate at which he pays wages to employees
5 for the same or substantially similar work on jobs the
6 performance of which requires equal skill, effort, and
7 responsibility, and which are performed under similar working
8 conditions, except where such payment is made pursuant to (1) a
9 seniority system; (2) a merit system; (3) a system which
10 measures earnings by quantity or quality of production; or (4)
11 a differential based on any other factor other than sex or
12 mental or physical handicap, except as otherwise provided in
13 this Act.

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

26 (d) No camp counselor who resides on the premises of a

1 seasonal camp of an organized not-for-profit corporation shall
2 be subject to the adult minimum wage if the camp counselor (1)
3 works 40 or more hours per week, and (2) receives a total
4 weekly salary of not less than the adult minimum wage for a
5 40-hour week. If the counselor works less than 40 hours per
6 week, the counselor shall be paid the minimum hourly wage for
7 each hour worked. Every employer of a camp counselor under this
8 subsection is entitled to an allowance for meals and lodging as
9 part of the hourly wage rate provided in Section 4, subsection
10 (a), in an amount not to exceed 25% of the minimum wage rate.

11 (e) A camp counselor employed at a day camp ~~of an organized~~
12 ~~not-for-profit corporation~~ is not subject to the adult minimum
13 wage if the camp counselor is paid a stipend on a onetime or
14 periodic basis and, if the camp counselor is a minor, the
15 minor's parent, guardian or other custodian has consented in
16 writing to the terms of payment before the commencement of such
17 employment.

18 (Source: P.A. 93-581, eff. 1-1-04; 94-1072, eff. 7-1-07;
19 94-1102, eff. 7-1-07.)".