SPONSOR: Rep. K. Williams & Sen. Walsh & Sen. Pinkney & Rep. Kowalko
Reps. Bentz, Brady, Lambert, Lynn, Minor-Brown, Morrison, Osienski, Wilson-Anton

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 94

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE DELAWARE MINIMUM WAGE FOR EMPLOYEES RECEIVING TIPS OR GRATUITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 9, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 902 Minimum wage rate (For current federal minimum wage, see 29 U.S.C. § 206(a)(1)(A))

(a) Except as may otherwise be provided under this chapter, every employer shall pay to every employee in any occupation wages of a rate:

(1) Not less than $7.75 per hour effective June 1, 2014;

(2) Not less than $8.25 per hour effective June 1, 2015;

(3) Not less than $8.75 per hour effective January 1, 2019;

(4) Not less than $9.25 per hour effective October 1, 2019;

Upon the establishment of a federal minimum wage in excess of the state minimum wage, the minimum wage in this State shall be equal in amount to the federal minimum wage, except as may otherwise be provided under this chapter.

(b) Gratuities received by employees engaged in occupations in which gratuities customarily constitute part of the remuneration may be considered wages for purposes of this chapter in an amount equal to the tip credit percentage, as set by the federal government as of June 15, 2006, of the minimum rate as set forth in subsection (a) of this section. In no event shall the minimum rate, under this subsection, be less than ~~$2.23 per hour~~ 65% of the minimum rate as set forth in subsection (a) .

SYNOPSIS

The minimum wage for employees who receive tips or gratuities has not changed since 1983, when the overall state minimum wage was $3.35 per hour. Tipped wage workers at that time were paid a percentage – 66.67% – of the minimum wage, which was $2.23 per hour. In 1989, the General Assembly changed the hourly wage to a flat $2.23 per hour, where it has remained since. Had the calculation been left unchanged, the tipped wage would have increased along with the minimum wage. Therefore, this bill ensures that employees who receive tips or gratuities also receive a minimum wage increase when other employees in the State receive a minimum wage increase.

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