

1 HB26
2 180710-1
3 By Representative Givan
4 RFD: State Government
5 First Read: 07-FEB-17
6 PFD: 12/01/2016

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8 SYNOPSIS: Currently, Alabama does not have a state
9 minimum wage law.

10 This bill establishes a state minimum wage
11 for Alabama; provides for the enforcement of this
12 act by the Secretary of the Alabama Department of
13 Labor; and also provides for civil penalties for
14 violating the provisions of this act.

15 This bill would provide that tipped
16 employees' wages may not fall below 30 percent of
17 the minimum wage at any time.

18 The bill would provide for an increase
19 commencing on January 1, 2020, and every three
20 years thereafter based on the Consumer Price Index
21 for July 1 of the year preceding the year of the
22 increase.

23 The bill would require the State Finance
24 Director to notify the Alabama Department of Labor
25 in writing between October 1 and October 15 each
26 year preceding a wage adjustment of the percentage

1 to be used for the cost-of-living adjustment for
2 the next three calendar years.

3 This bill would require the Alabama
4 Department of Labor to post any change in the state
5 minimum wage on its website which shall serve as
6 notice to each employer of this state.

7
8 A BILL
9 TO BE ENTITLED
10 AN ACT

11
12 To establish the Alabama Minimum Wage Act; to set
13 the state minimum wage for hourly and tipped employees; to
14 provide that the Secretary of Labor shall enforce this act; to
15 establish civil penalties for violating the provisions of this
16 act; and to provide for an increase commencing on January 1,
17 2020, and every three years thereafter based on the Consumer
18 Price Index for July 1 of the year preceding the year of the
19 increase.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This act shall be known and may be cited
22 as the "Alabama Minimum Wage Act."

23 Section 2. As used in this act:

24 (1) EMPLOY. Hire or permit to work.

25 (2) EMPLOYEE. An individual employed by an employer.

26 (3) EMPLOYER. An individual, partnership,
27 association, corporation, business trust, legal

1 representative, or any organized group of persons, acting
2 directly or indirectly in the interest of an employer in
3 relation to an employee.

4 (4) SECRETARY. The Secretary of the Alabama
5 Department of Labor.

6 (5) WAGES. Compensation paid to an employee in the
7 form of legal tender of the United States or checks or drafts
8 on banks negotiable into cash on demand or upon acceptance at
9 full value. Wages shall not include tips or gratuities of any
10 kind.

11 Section 3. (a) (1) Every employer shall pay to each
12 employee who is paid on an hourly basis a rate not less than
13 ten dollars (\$10) per hour, beginning on the 60th day after
14 the effective date of this act.

15 (2) The wages paid to tipped employees may not fall
16 below 30 percent of the federal or the state minimum wage
17 rate, whichever is greater, at any time, provided that the
18 employee receives at least 70 percent of the current minimum
19 wage rate in gratuities. If an employee's gratuities combined
20 with the employer's direct wages do not equal the applicable
21 minimum wage rate, the employer must pay the difference in the
22 form of a tip credit.

23 (b) Beginning January 1, 2020, and every subsequent
24 three years, the minimum wage provided in subsection (a) shall
25 be increased by the same amount as the increase in the
26 Consumer Price Index for Alabama as reported by the United
27 States Department of Labor for the previous July 1, or any

1 subsequent equivalent index. The State Finance Director shall
2 notify the Alabama Department of Labor in writing between
3 October 1 and October 15 of each fiscal year of the percentage
4 to be used for the cost-of-living adjustment for the next
5 three calendar years. The Alabama Department of Labor shall
6 post any change in the minimum wage on its website which shall
7 serve as notice to each employer of this state.

8 Section 4. Every employer subject to the provisions
9 of this act shall keep a summary of this act and any
10 applicable wage orders and regulations posted in a conspicuous
11 and accessible place in or about the premises of the
12 employer's place of business.

13 Section 5. The provisions of this act shall be
14 enforced by the Alabama Department of Labor under the
15 Secretary of Labor.

16 Section 6. The secretary or an authorized
17 representative of the secretary shall have the authority to:

18 (1) Investigate and ascertain the wages of a person
19 employed in any occupation in this state;

20 (2) Enter and inspect the place of business of an
21 employer subject to the provisions of this act for the purpose
22 of inspecting the payroll records of the employer;

23 (3) Require from an employer subject to this act a
24 full and correct statement in writing with respect to wages,
25 names, and addresses of any of the employer's employees;

26 (4) Administer rules and require by subpoena the
27 attendance of witnesses, and the production of books, records,

1 and other evidence relative to any matter under investigation;
2 and

3 (5) Carry out the provisions of this act.

4 Section 7. Any employer who willfully violates any
5 provision of this act is subject to a civil penalty of not
6 less than five hundred dollars (\$500) nor more than one
7 thousand dollars (\$1,000) at the discretion of the secretary,
8 or the secretary's designated representative. Each and every
9 infraction constitutes a separate and distinct violation. If
10 the secretary, or the secretary's designated representative,
11 determines that the violation was unintentional, there shall
12 be a warning, in lieu of a penalty, on the first violation. On
13 second or subsequent violations, the civil penalty is
14 applicable and may be assessed at the discretion of the
15 secretary, or the secretary's designated representative.

16 Section 8. Any employer who violates the minimum
17 wage requirements of this act shall be liable to the employee
18 or employees affected for the amount of unpaid minimum wages.
19 Upon a judgment being rendered in favor of any employee or
20 employees, in any action brought in any court of competent
21 jurisdiction to recover unpaid wages under this act, such
22 judgment shall include, in addition to the unpaid wages
23 adjudged to be due, an additional amount equal to such wages
24 as damages. The court, in addition to any judgment awarded to
25 the employees, shall require the defendant to pay court costs
26 and reasonable attorney's fees incurred by the employee or
27 employees. However, action to recover must be instituted

1 within three years from the date such wages should have been
2 paid.

3 Section 9. In the administration of this act, the
4 secretary shall cooperate, to the fullest extent consistent
5 with this act, with the administrator of the Wage and Hour
6 Division of the United States Department of Labor.

7 Section 10. Nothing in this act shall be deemed to
8 interfere with, impede, or in any way diminish the right of
9 employees to bargain collectively through representatives of
10 their own choosing in order to establish wages in excess of
11 the applicable minimum under this act.

12 Section 11. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.