

As Introduced

134th General Assembly

Regular Session

2021-2022

S. B. No. 51

Senators Thomas, Craig

Cosponsors: Senators Maharath, Yuko, Fedor, Williams, Antonio

A BILL

To amend sections 4111.02, 4111.09, and 4111.14 and 1
to repeal section 4111.07 of the Revised Code to 2
increase the state minimum wage and to allow 3
municipalities, townships, and counties to 4
establish higher minimum wage requirements. 5

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

Section 1. That sections 4111.02, 4111.09, and 4111.14 of 6
the Revised Code be amended to read as follows: 7

Sec. 4111.02. ~~Every~~ (A) (1) Except as provided in divisions 8
(A) (2) and (C) of this section, every employer, as defined in 9
Section 34a of Article II, Ohio Constitution, shall pay each of 10
the employer's employees at a wage rate of not less than ~~the~~ 11
~~wage rate specified in Section 34a of Article II, Ohio~~ 12
~~Constitution~~ the following wage rates: 13

(a) During the period beginning January 1, 2022, and 14
ending December 31, 2022, twelve dollars per hour; 15

(b) During the period beginning January 1, 2023, and 16
ending December 31, 2023, thirteen dollars per hour; 17

(c) During the period beginning January 1, 2024, and 18
ending December 31, 2024, fourteen dollars per hour; 19

(d) Beginning January 1, 2025, fifteen dollars per hour. 20

(2) If an employer is able to demonstrate that an employee 21
receives tips that combined with the wages paid by the employer 22
are equal to or greater than the minimum wage rate for all hours 23
worked, the employer may pay the employee at a rate of less 24
than, but not less than half, the minimum wage rate required by 25
division (A)(1) of this section. 26

~~The~~ (B) On September 30, 2025, and every thirtieth day of 27
September thereafter, the director of commerce annually shall 28
adjust the wage rate as specified in division (A)(1)(d) of this 29
section in accordance with Section 34a of Article II, Ohio 30
Constitution. The adjusted wage rate takes effect on the first 31
day of January immediately following the date of the adjustment. 32

~~No political subdivision shall~~ (C) A municipal 33
corporation, township, or county may establish within the 34
jurisdiction of the municipal corporation, township, or county a 35
minimum wage rate different from that exceeds the wage rate 36
required under this section. Notwithstanding division (M) of 37
section 302.13 and division (D) of section 504.04 of the Revised 38
Code, an employer who is subject to more than one minimum wage 39
requirement shall pay each of the employer's employees the 40
highest minimum wage to which the employer is subject. 41

(D) As used in this section, "employee" has the same 42
meaning as in section 4111.14 of the Revised Code. 43

Sec. 4111.09. Every employer subject to sections 4111.01 44
to 4111.17 of the Revised Code, or to any rules issued 45
thereunder, shall keep a summary of the sections, approved by 46

the director of commerce, and copies of any applicable rules 47
issued thereunder, or a summary of the rules, posted in a 48
conspicuous and accessible place in or about the premises 49
wherein any person subject thereto is employed. The director of 50
commerce shall make the summary described in this section 51
available on the web site of the department of commerce. The 52
director shall update this summary as necessary, but not less 53
than annually, in order to reflect changes in the minimum wage 54
rate as required under Section 34a of Article II, Ohio 55
Constitution and section 4111.02 of the Revised Code. Employees 56
and employers shall be furnished copies of the summaries and 57
rules by the state, on request, without charge. 58

Sec. 4111.14. (A) Pursuant to the general assembly's 59
authority to establish a minimum wage under Section 34 of 60
Article II, Ohio Constitution, this section is in implementation 61
of Section 34a of Article II, Ohio Constitution. In implementing 62
Section 34a of Article II, Ohio Constitution, the general 63
assembly hereby finds that the purpose of Section 34a of Article 64
II, Ohio Constitution, is to: 65

(1) Ensure that Ohio employees, as defined in division (B) 66
(1) of this section, are paid the wage rate required by section 67
4111.02 of the Revised Code in accordance with Section 34a of 68
Article II, Ohio Constitution; 69

(2) Ensure that covered Ohio employers maintain certain 70
records that are directly related to the enforcement of the wage 71
rate requirements ~~in~~ of Section 34a of Article II, Ohio 72
Constitution, and section 4111.02 of the Revised Code; 73

(3) Ensure that Ohio employees who are paid the wage rate 74
required by ~~Section 34a of Article II, Ohio Constitution~~ section 75
4111.02 of the Revised Code, may enforce their right to receive 76

that wage rate in the manner set forth in Section 34a of Article 77
II, Ohio Constitution; and 78

(4) Protect the privacy of Ohio employees' pay and 79
personal information specified in Section 34a of Article II, 80
Ohio Constitution, by restricting an employee's access, and 81
access by a person acting on behalf of that employee, to the 82
employee's own pay and personal information. 83

(B) In accordance with Section 34a of Article II, Ohio 84
Constitution, the terms "employer," "employee," "employ," 85
"person," and "independent contractor" have the same meanings as 86
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 87
U.S.C. 203, as amended. In construing the meaning of these 88
terms, due consideration and great weight shall be given to the 89
United States department of labor's and federal courts' 90
interpretations of those terms under the Fair Labor Standards 91
Act and its regulations. As used in division (B) of this 92
section: 93

(1) "Employee" means individuals employed in Ohio, but 94
does not mean individuals who are excluded from the definition 95
of "employee" under 29 U.S.C. 203(e) or individuals who are 96
exempted from the minimum wage requirements in 29 U.S.C. 213 and 97
from the definition of "employee" in this chapter. 98

(2) "Employ" and "employee" do not include any person 99
acting as a volunteer. In construing who is a volunteer, 100
"volunteer" shall have the same meaning as in sections 553.101 101
to 553.106 of Title 29 of the Code of Federal Regulations, as 102
amended, and due consideration and great weight shall be given 103
to the United States department of labor's and federal courts' 104
interpretations of the term "volunteer" under the Fair Labor 105
Standards Act and its regulations. 106

(3) "Employer" does not include a franchisor with respect 107
to the franchisor's relationship with a franchisee or an 108
employee of a franchisee, unless the franchisor agrees to assume 109
that role in writing or a court of competent jurisdiction 110
determines that the franchisor exercises a type or degree of 111
control over the franchisee or the franchisee's employees that 112
is not customarily exercised by a franchisor for the purpose of 113
protecting the franchisor's trademark, brand, or both. For 114
purposes of this division, "franchisor" and "franchisee" have 115
the same meanings as in 16 C.F.R. 436.1. 116

(4) Subject to division (B)(5) of this section, "employee" 117
does not include an individual who operates a vehicle or vessel 118
in the performance of services for or on behalf of a motor 119
carrier transporting property and to whom all of the following 120
factors apply: 121

(a) The individual owns the vehicle or vessel that is used 122
in performing the services for or on behalf of the carrier, or 123
the individual leases the vehicle or vessel under a bona fide 124
lease agreement that is not a temporary replacement lease 125
agreement. For purposes of this division, a bona fide lease 126
agreement does not include an agreement between the individual 127
and the motor carrier transporting property for which, or on 128
whose behalf, the individual provides services. 129

(b) The individual is responsible for supplying the 130
necessary personal services to operate the vehicle or vessel 131
used to provide the service. 132

(c) The compensation paid to the individual is based on 133
factors related to work performed, including on a mileage-based 134
rate or a percentage of any schedule of rates, and not solely on 135
the basis of the hours or time expended. 136

(d) The individual substantially controls the means and 137
manner of performing the services, in conformance with 138
regulatory requirements and specifications of the shipper. 139

(e) The individual enters into a written contract with the 140
carrier for whom the individual is performing the services that 141
describes the relationship between the individual and the 142
carrier to be that of an independent contractor and not that of 143
an employee. 144

(f) The individual is responsible for substantially all of 145
the principal operating costs of the vehicle or vessel and 146
equipment used to provide the services, including maintenance, 147
fuel, repairs, supplies, vehicle or vessel insurance, and 148
personal expenses, except that the individual may be paid by the 149
carrier the carrier's fuel surcharge and incidental costs, 150
including tolls, permits, and lumper fees. 151

(g) The individual is responsible for any economic loss or 152
economic gain from the arrangement with the carrier. 153

(5) A motor carrier may elect to consider an individual 154
described in division (B) (4) of this section as an employee for 155
purposes of this section. 156

(6) "Motor carrier" has the same meaning as in section 157
4923.01 of the Revised Code. 158

(C) In accordance with Section 34a of Article II, Ohio 159
Constitution, the state may issue licenses to employers 160
authorizing payment of a wage below that required by Section 34a 161
of Article II, Ohio Constitution, or section 4111.02 of the 162
Revised Code to individuals with mental or physical disabilities 163
that may otherwise adversely affect their opportunity for 164
employment. In issuing such licenses, the state shall abide by 165

the rules adopted pursuant to section 4111.06 of the Revised Code. 166
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(D) (1) In accordance with Section 34a of Article II, Ohio Constitution, individuals employed in or about the property of an employer or an individual's residence on a casual basis are not included within the coverage of Section 34a of Article II, Ohio Constitution. As used in division (D) of this section: 168
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(a) "Casual basis" means employment that is irregular or intermittent and that is not performed by an individual whose vocation is to be employed in or about the property of the employer or individual's residence. In construing who is employed on a "casual basis," due consideration and great weight shall be given to the United States department of labor's and federal courts' interpretations of the term "casual basis" under the Fair Labor Standards Act and its regulations. 173
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(b) "An individual employed in or about the property of an employer or individual's residence" means an individual employed on a casual basis or an individual employed in or about a residence on a casual basis, respectively. 181
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(2) In accordance with Section 34a of Article II, Ohio Constitution, employees of a solely family-owned and operated business who are family members of an owner are not included within the coverage of Section 34a of Article II, Ohio Constitution. As used in division (D) (2) of this section, "family member" means a parent, spouse, child, stepchild, sibling, grandparent, grandchild, or other member of an owner's immediate family. 185
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(E) In accordance with Section 34a of Article II, Ohio Constitution, an employer shall at the time of hire provide an 193
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employee with the employer's name, address, telephone number, 195
and other contact information and update such information when 196
it changes. As used in division (E) of this section: 197

(1) "Other contact information" may include, where 198
applicable, the address of the employer's internet site on the 199
world wide web, the employer's electronic mail address, fax 200
number, or the name, address, and telephone number of the 201
employer's statutory agent. "Other contact information" does not 202
include the name, address, telephone number, fax number, 203
internet site address, or electronic mail address of any 204
employee, shareholder, officer, director, supervisor, manager, 205
or other individual employed by or associated with an employer. 206

(2) "When it changes" means that the employer shall 207
provide its employees with the change in its name, address, 208
telephone number, or other contact information within sixty 209
business days after the change occurs. The employer shall 210
provide the changed information by using any of its usual 211
methods of communicating with its employees, including, but not 212
limited to, listing the change on the employer's internet site 213
on the world wide web, internal computer network, or a bulletin 214
board where it commonly posts employee communications or by 215
insertion or inclusion with employees' paychecks or pay stubs. 216

(F) In accordance with Section 34a of Article II, Ohio 217
Constitution, an employer shall maintain a record of the name, 218
address, occupation, pay rate, hours worked for each day worked, 219
and each amount paid an employee for a period of not less than 220
three years following the last date the employee was employed by 221
that employer. As used in division (F) of this section: 222

(1) "Address" means an employee's home address as 223
maintained in the employer's personnel file or personnel 224

database for that employee. 225

(2) (a) With respect to employees who are not exempt from 226
the overtime pay requirements of the Fair Labor Standards Act or 227
this chapter, "pay rate" means an employee's base rate of pay. 228

(b) With respect to employees who are exempt from the 229
overtime pay requirements of the Fair Labor Standards Act or 230
this chapter, "pay rate" means an employee's annual base salary 231
or other rate of pay by which the particular employee qualifies 232
for that exemption under the Fair Labor Standards Act or this 233
chapter, but does not include bonuses, stock options, 234
incentives, deferred compensation, or any other similar form of 235
compensation. 236

(3) "Record" means the name, address, occupation, pay 237
rate, hours worked for each day worked, and each amount paid an 238
employee in one or more documents, databases, or other paper or 239
electronic forms of record-keeping maintained by an employer. No 240
one particular method or form of maintaining such a record or 241
records is required under this division. An employer is not 242
required to create or maintain a single record containing only 243
the employee's name, address, occupation, pay rate, hours worked 244
for each day worked, and each amount paid an employee. An 245
employer shall maintain a record or records from which the 246
employee or person acting on behalf of that employee could 247
reasonably review the information requested by the employee or 248
person. 249

An employer is not required to maintain the records 250
specified in division (F) (3) of this section for any period 251
before January 1, 2007. On and after January 1, 2007, the 252
employer shall maintain the records required by division (F) (3) 253
of this section for three years from the date the hours were 254

worked by the employee and for three years after the date the 255
employee's employment ends. 256

(4) (a) Except for individuals specified in division (F) (4) 257
(b) of this section, "hours worked for each day worked" means 258
the total amount of time worked by an employee in whatever 259
increments the employer uses for its payroll purposes during a 260
day worked by the employee. An employer is not required to keep 261
a record of the time of day an employee begins and ends work on 262
any given day. As used in division (F) (4) of this section, "day" 263
means a fixed period of twenty-four consecutive hours during 264
which an employee performs work for an employer. 265

(b) An employer is not required to keep records of "hours 266
worked for each day worked" for individuals for whom the 267
employer is not required to keep those records under the Fair 268
Labor Standards Act and its regulations or individuals who are 269
not subject to the overtime pay requirements specified in 270
section 4111.03 of the Revised Code. 271

(5) "Each amount paid an employee" means the total gross 272
wages paid to an employee for each pay period. As used in 273
division (F) (5) of this section, "pay period" means the period 274
of time designated by an employer to pay an employee the 275
employee's gross wages in accordance with the employer's payroll 276
practices under section 4113.15 of the Revised Code. 277

(G) In accordance with Section 34a of Article II, Ohio 278
Constitution, an employer must provide such information without 279
charge to an employee or person acting on behalf of an employee 280
upon request. As used in division (G) of this section: 281

(1) "Such information" means the name, address, 282
occupation, pay rate, hours worked for each day worked, and each 283

amount paid for the specific employee who has requested that 284
specific employee's own information and does not include the 285
name, address, occupation, pay rate, hours worked for each day 286
worked, or each amount paid of any other employee of the 287
employer. "Such information" does not include hours worked for 288
each day worked by individuals for whom an employer is not 289
required to keep that information under the Fair Labor Standards 290
Act and its regulations or individuals who are not subject to 291
the overtime pay requirements specified in section 4111.03 of 292
the Revised Code. 293

(2) "Acting on behalf of an employee" means a person 294
acting on behalf of an employee as any of the following: 295

(a) The certified or legally recognized collective 296
bargaining representative for that employee under the applicable 297
federal law or Chapter 4117. of the Revised Code; 298

(b) The employee's attorney; 299

(c) The employee's parent, guardian, or legal custodian. 300

A person "acting on behalf of an employee" must be 301
specifically authorized by an employee in order to make a 302
request for that employee's own name, address, occupation, pay 303
rate, hours worked for each day worked, and each amount paid to 304
that employee. 305

(3) "Provide" means that an employer shall provide the 306
requested information within thirty business days after the date 307
the employer receives the request, unless either of the 308
following occurs: 309

(a) The employer and the employee or person acting on 310
behalf of the employee agree to some alternative time period for 311
providing the information. 312

(b) The thirty-day period would cause a hardship on the 313
employer under the circumstances, in which case the employer 314
must provide the requested information as soon as practicable. 315

(4) A "request" made by an employee or a person acting on 316
behalf of an employee means a request by an employee or a person 317
acting on behalf of an employee for the employee's own 318
information. The employer may require that the employee provide 319
the employer with a written request that has been signed by the 320
employee and notarized and that reasonably specifies the 321
particular information being requested. The employer may require 322
that the person acting on behalf of an employee provide the 323
employer with a written request that has been signed by the 324
employee whose information is being requested and notarized and 325
that reasonably specifies the particular information being 326
requested. 327

(H) In accordance with Section 34a of Article II, Ohio 328
Constitution, an employee, person acting on behalf of one or 329
more employees, and any other interested party may file a 330
complaint with the state for a violation of any provision of 331
Section 34a of Article II, Ohio Constitution, or any law or 332
regulation implementing its provisions. Such complaint shall be 333
promptly investigated and resolved by the state. The employee's 334
name shall be kept confidential unless disclosure is necessary 335
to resolution of a complaint and the employee consents to 336
disclosure. As used in division (H) of this section: 337

(1) "Complaint" means a complaint of an alleged violation 338
pertaining to harm suffered by the employee filing the 339
complaint, by a person acting on behalf of one or more 340
employees, or by an interested party. 341

(2) "Acting on behalf of one or more employees" has the 342

same meaning as "acting on behalf of an employee" in division 343
(G) (2) of this section. Each employee must provide a separate 344
written and notarized authorization before the person acting on 345
that employee's or those employees' behalf may request the name, 346
address, occupation, pay rate, hours worked for each day worked, 347
and each amount paid for the particular employee. 348

(3) "Interested party" means a party who alleges to be 349
injured by the alleged violation and who has standing to file a 350
complaint under common law principles of standing. 351

(4) "Resolved by the state" means that the complaint has 352
been resolved to the satisfaction of the state. 353

(5) "Shall be kept confidential" means that the state 354
shall keep the name of the employee confidential as required by 355
division (H) of this section. 356

(I) In accordance with Section 34a of Article II, Ohio 357
Constitution, the state may on its own initiative investigate an 358
employer's compliance with Section 34a of Article II, Ohio 359
Constitution, and any law or regulation implementing Section 34a 360
of Article II, Ohio Constitution. The employer shall make 361
available to the state any records related to such investigation 362
and other information required for enforcement of Section 34a of 363
Article II, Ohio Constitution or any law or regulation 364
implementing Section 34a of Article II, Ohio Constitution. The 365
state shall investigate an employer's compliance with this 366
section in accordance with the procedures described in section 367
4111.04 of the Revised Code. All records and information related 368
to investigations by the state are confidential and are not a 369
public record subject to section 149.43 of the Revised Code. 370
This division does not prevent the state from releasing to or 371
exchanging with other state and federal wage and hour regulatory 372

authorities information related to investigations. 373

(J) In accordance with Section 34a of Article II, Ohio 374
Constitution, damages shall be calculated as an additional two 375
times the amount of the back wages and in the case of a 376
violation of an anti-retaliation provision an amount set by the 377
state or court sufficient to compensate the employee and deter 378
future violations, but not less than one hundred fifty dollars 379
for each day that the violation continued. The "not less than 380
one hundred fifty dollar" penalty specified in division (J) of 381
this section shall be imposed only for violations of the anti- 382
retaliation provision in Section 34a of Article II, Ohio 383
Constitution. 384

(K) In accordance with Section 34a of Article II, Ohio 385
Constitution, an action for equitable and monetary relief may be 386
brought against an employer by the attorney general and/or an 387
employee or person acting on behalf of an employee or all 388
similarly situated employees in any court of competent 389
jurisdiction, including the court of common pleas of an 390
employee's county of residence, for any violation of Section 34a 391
of Article II, Ohio Constitution, or any law or regulation 392
implementing its provisions within three years of the violation 393
or of when the violation ceased if it was of a continuing 394
nature, or within one year after notification to the employee of 395
final disposition by the state of a complaint for the same 396
violation, whichever is later. 397

(1) As used in division (K) of this section, 398
"notification" means the date on which the notice was sent to 399
the employee by the state. 400

(2) No employee shall join as a party plaintiff in any 401
civil action that is brought under division (K) of this section 402

by an employee, person acting on behalf of an employee, or 403
person acting on behalf of all similarly situated employees 404
unless that employee first gives written consent to become such 405
a party plaintiff and that consent is filed with the court in 406
which the action is brought. 407

(3) A civil action regarding an alleged violation of this 408
section shall be maintained only under division (K) of this 409
section. This division does not preclude the joinder in a single 410
civil action of an action under this division and an action 411
under section 4111.10 of the Revised Code. 412

(4) Any agreement between an employee and employer to work 413
for less than the wage rate specified in ~~Section 34a of Article~~ 414
~~II, Ohio Constitution~~ section 4111.02 of the Revised Code, is no 415
defense to an action under this section. 416

(L) In accordance with Section 34a of Article II, Ohio 417
Constitution, there shall be no exhaustion requirement, no 418
procedural, pleading, or burden of proof requirements beyond 419
those that apply generally to civil suits in order to maintain 420
such action and no liability for costs or attorney's fees on an 421
employee except upon a finding that such action was frivolous in 422
accordance with the same standards that apply generally in civil 423
suits. Nothing in division (L) of this section affects the right 424
of an employer and employee to agree to submit a dispute under 425
this section to alternative dispute resolution, including, but 426
not limited to, arbitration, in lieu of maintaining the civil 427
suit specified in division (K) of this section. Nothing in this 428
division limits the state's ability to investigate or enforce 429
this section. 430

(M) An employer who provides such information specified in 431
Section 34a of Article II, Ohio Constitution, shall be immune 432

from any civil liability for injury, death, or loss to person or 433
property that otherwise might be incurred or imposed as a result 434
of providing that information to an employee or person acting on 435
behalf of an employee in response to a request by the employee 436
or person, and the employer shall not be subject to the 437
provisions of Chapters 1347. and 1349. of the Revised Code to 438
the extent that such provisions would otherwise apply. As used 439
in division (M) of this section, "such information," "acting on 440
behalf of an employee," and "request" have the same meanings as 441
in division (G) of this section. 442

(N) As used in this section, "the state" means the 443
director of commerce. 444

Section 2. That existing sections 4111.02, 4111.09, and 445
4111.14 of the Revised Code are hereby repealed. 446

Section 3. That section 4111.07 of the Revised Code is 447
hereby repealed. 448