

As Introduced

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Representatives Smith, K., Craig

**Cosponsors: Representatives Sykes, Antonio, Boyce, Lepore-Hagan, Boyd,
O'Brien, M., Patterson, Curtin, Strahorn, Leland, Boggs, Sheehy**

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 to ten dollars 3
and ten cents per hour beginning January 1, 4
2017. 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 otherwise provided in 8
division (A) (2) of this section, beginning January 1, 2017, 9
every employer, as defined in Section 34a of Article II, Ohio 10
Constitution, shall pay each of the employer's employees at a 11
wage rate of not less than ~~the wage rate specified in Section~~ 12
~~34a of Article II, Ohio Constitution~~ ten dollars and ten cents 13
per hour. 14

(2) If an employer is able to demonstrate that an employee 15
receives tips that combined with the wages paid by the employer 16
are equal to or greater than the minimum wage rate for all hours 17

worked, the employer may pay the employee at a rate of less 18
than, but not less than half, the minimum wage rate required by 19
division (A)(1) of this section. 20

(B) The director of commerce annually shall adjust the 21
wage rate ~~as~~ specified in division (A)(1) of this section in 22
accordance with Section 34a of Article II, Ohio Constitution. 23

(C) As used in this section, "employee" has the same 24
meaning as in section 4111.14 of the Revised Code. 25

Sec. 4111.09. Every employer subject to sections 4111.01 26
to 4111.17 of the Revised Code, or to any rules issued 27
thereunder, shall keep a summary of the sections, approved by 28
the director of commerce, and copies of any applicable rules 29
issued thereunder, or a summary of the rules, posted in a 30
conspicuous and accessible place in or about the premises 31
wherein any person subject thereto is employed. The director of 32
commerce shall make the summary described in this section 33
available on the web site of the department of commerce. The 34
director shall update this summary as necessary, but not less 35
than annually, in order to reflect changes in the minimum wage 36
rate as required under Section 34a of Article II, Ohio 37
Constitution and section 4111.02 of the Revised Code. Employees 38
and employers shall be furnished copies of the summaries and 39
rules by the state, on request, without charge. 40

Sec. 4111.14. (A) Pursuant to the general assembly's 41
authority to establish a minimum wage under Section 34 of 42
Article II, Ohio Constitution, this section is in implementation 43
of Section 34a of Article II, Ohio Constitution. In implementing 44
Section 34a of Article II, Ohio Constitution, the general 45
assembly hereby finds that the purpose of Section 34a of Article 46
II, Ohio Constitution, is to: 47

(1) Ensure that Ohio employees, as defined in division (B) 48
(1) of this section, are paid the wage rate required by section 49
4111.02 of the Revised Code in accordance with Section 34a of 50
Article II, Ohio Constitution; 51

(2) Ensure that covered Ohio employers maintain certain 52
records that are directly related to the enforcement of the wage 53
rate requirements ~~in~~ of Section 34a of Article II, Ohio 54
Constitution and section 4111.02 of the Revised Code; 55

(3) Ensure that Ohio employees who are paid the wage rate 56
required by ~~Section 34a of Article II, Ohio Constitution~~ section 57
4111.02 of the Revised Code, may enforce their right to receive 58
that wage rate in the manner set forth in Section 34a of Article 59
II, Ohio Constitution; and 60

(4) Protect the privacy of Ohio employees' pay and 61
personal information specified in Section 34a of Article II, 62
Ohio Constitution, by restricting an employee's access, and 63
access by a person acting on behalf of that employee, to the 64
employee's own pay and personal information. 65

(B) In accordance with Section 34a of Article II, Ohio 66
Constitution, the terms "employer," "employee," "employ," 67
"person," and "independent contractor" have the same meanings as 68
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 69
U.S.C. 203, as amended. In construing the meaning of these 70
terms, due consideration and great weight shall be given to the 71
United States department of labor's and federal courts' 72
interpretations of those terms under the Fair Labor Standards 73
Act and its regulations. As used in division (B) of this 74
section: 75

(1) "Employee" means individuals employed in Ohio, but 76

does not mean individuals who are excluded from the definition 77
of "employee" under 29 U.S.C. 203(e) or individuals who are 78
exempted from the minimum wage requirements in 29 U.S.C. 213 and 79
from the definition of "employee" in this chapter. 80

(2) "Employ" and "employee" do not include any person 81
acting as a volunteer. In construing who is a volunteer, 82
"volunteer" shall have the same meaning as in sections 553.101 83
to 553.106 of Title 29 of the Code of Federal Regulations, as 84
amended, and due consideration and great weight shall be given 85
to the United States department of labor's and federal courts' 86
interpretations of the term "volunteer" under the Fair Labor 87
Standards Act and its regulations. 88

(C) In accordance with Section 34a of Article II, Ohio 89
Constitution, the state may issue licenses to employers 90
authorizing payment of a wage below that required by Section 34a 91
of Article II, Ohio Constitution, or section 4111.02 of the 92
Revised Code to individuals with mental or physical disabilities 93
that may otherwise adversely affect their opportunity for 94
employment. In issuing such licenses, the state shall abide by 95
the rules adopted pursuant to section 4111.06 of the Revised 96
Code. 97

(D) (1) In accordance with Section 34a of Article II, Ohio 98
Constitution, individuals employed in or about the property of 99
an employer or an individual's residence on a casual basis are 100
not included within the coverage of Section 34a of Article II, 101
Ohio Constitution. As used in division (D) of this section: 102

(a) "Casual basis" means employment that is irregular or 103
intermittent and that is not performed by an individual whose 104
vocation is to be employed in or about the property of the 105
employer or individual's residence. In construing who is 106

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.

(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.

(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.

(E) In accordance with Section 34a of Article II, Ohio Constitution, an employer shall at the time of hire provide an employee with the employer's name, address, telephone number, and other contact information and update such information when it changes. As used in division (E) of this section:

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

(2) "When it changes" means that the employer shall 137
provide its employees with the change in its name, address, 138
telephone number, or other contact information within sixty 139
business days after the change occurs. The employer shall 140
provide the changed information by using any of its usual 141
methods of communicating with its employees, including, but not 142
limited to, listing the change on the employer's internet site 143
on the world wide web, internal computer network, or a bulletin 144
board where it commonly posts employee communications or by 145
insertion or inclusion with employees' paychecks or pay stubs. 146

(F) In accordance with Section 34a of Article II, Ohio 147
Constitution, an employer shall maintain a record of the name, 148
address, occupation, pay rate, hours worked for each day worked, 149
and each amount paid an employee for a period of not less than 150
three years following the last date the employee was employed by 151
that employer. As used in division (F) of this section: 152

(1) "Address" means an employee's home address as 153
maintained in the employer's personnel file or personnel 154
database for that employee. 155

(2) (a) With respect to employees who are not exempt from 156
the overtime pay requirements of the Fair Labor Standards Act or 157
this chapter, "pay rate" means an employee's base rate of pay. 158

(b) With respect to employees who are exempt from the 159
overtime pay requirements of the Fair Labor Standards Act or 160
this chapter, "pay rate" means an employee's annual base salary 161
or other rate of pay by which the particular employee qualifies 162
for that exemption under the Fair Labor Standards Act or this 163
chapter, but does not include bonuses, stock options, 164
incentives, deferred compensation, or any other similar form of 165
compensation. 166

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

An employer is not required to maintain the records specified in division (F) (3) of this section for any period before January 1, 2007. On and after January 1, 2007, the employer shall maintain the records required by division (F) (3) of this section for three years from the date the hours were worked by the employee and for three years after the date the employee's employment ends.

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

(b) An employer is not required to keep records of "hours

worked for each day worked" for individuals for whom the 197
employer is not required to keep those records under the Fair 198
Labor Standards Act and its regulations or individuals who are 199
not subject to the overtime pay requirements specified in 200
section 4111.03 of the Revised Code. 201

(5) "Each amount paid an employee" means the total gross 202
wages paid to an employee for each pay period. As used in 203
division (F)(5) of this section, "pay period" means the period 204
of time designated by an employer to pay an employee the 205
employee's gross wages in accordance with the employer's payroll 206
practices under section 4113.15 of the Revised Code. 207

(G) In accordance with Section 34a of Article II, Ohio 208
Constitution, an employer must provide such information without 209
charge to an employee or person acting on behalf of an employee 210
upon request. As used in division (G) of this section: 211

(1) "Such information" means the name, address, 212
occupation, pay rate, hours worked for each day worked, and each 213
amount paid for the specific employee who has requested that 214
specific employee's own information and does not include the 215
name, address, occupation, pay rate, hours worked for each day 216
worked, or each amount paid of any other employee of the 217
employer. "Such information" does not include hours worked for 218
each day worked by individuals for whom an employer is not 219
required to keep that information under the Fair Labor Standards 220
Act and its regulations or individuals who are not subject to 221
the overtime pay requirements specified in section 4111.03 of 222
the Revised Code. 223

(2) "Acting on behalf of an employee" means a person 224
acting on behalf of an employee as any of the following: 225

(a) The certified or legally recognized collective bargaining representative for that employee under the applicable federal law or Chapter 4117. of the Revised Code;	226 227 228
(b) The employee's attorney;	229
(c) The employee's parent, guardian, or legal custodian.	230
A person "acting on behalf of an employee" must be specifically authorized by an employee in order to make a request for that employee's own name, address, occupation, pay rate, hours worked for each day worked, and each amount paid to that employee.	231 232 233 234 235
(3) "Provide" means that an employer shall provide the requested information within thirty business days after the date the employer receives the request, unless either of the following occurs:	236 237 238 239
(a) The employer and the employee or person acting on behalf of the employee agree to some alternative time period for providing the information.	240 241 242
(b) The thirty-day period would cause a hardship on the employer under the circumstances, in which case the employer must provide the requested information as soon as practicable.	243 244 245
(4) A "request" made by an employee or a person acting on behalf of an employee means a request by an employee or a person acting on behalf of an employee for the employee's own information. The employer may require that the employee provide the employer with a written request that has been signed by the employee and notarized and that reasonably specifies the particular information being requested. The employer may require that the person acting on behalf of an employee provide the employer with a written request that has been signed by the	246 247 248 249 250 251 252 253 254

employee whose information is being requested and notarized and 255
that reasonably specifies the particular information being 256
requested. 257

(H) In accordance with Section 34a of Article II, Ohio 258
Constitution, an employee, person acting on behalf of one or 259
more employees, and any other interested party may file a 260
complaint with the state for a violation of any provision of 261
Section 34a of Article II, Ohio Constitution, or any law or 262
regulation implementing its provisions. Such complaint shall be 263
promptly investigated and resolved by the state. The employee's 264
name shall be kept confidential unless disclosure is necessary 265
to resolution of a complaint and the employee consents to 266
disclosure. As used in division (H) of this section: 267

(1) "Complaint" means a complaint of an alleged violation 268
pertaining to harm suffered by the employee filing the 269
complaint, by a person acting on behalf of one or more 270
employees, or by an interested party. 271

(2) "Acting on behalf of one or more employees" has the 272
same meaning as "acting on behalf of an employee" in division 273
(G) (2) of this section. Each employee must provide a separate 274
written and notarized authorization before the person acting on 275
that employee's or those employees' behalf may request the name, 276
address, occupation, pay rate, hours worked for each day worked, 277
and each amount paid for the particular employee. 278

(3) "Interested party" means a party who alleges to be 279
injured by the alleged violation and who has standing to file a 280
complaint under common law principles of standing. 281

(4) "Resolved by the state" means that the complaint has 282
been resolved to the satisfaction of the state. 283

(5) "Shall be kept confidential" means that the state 284
shall keep the name of the employee confidential as required by 285
division (H) of this section. 286

(I) In accordance with Section 34a of Article II, Ohio 287
Constitution, the state may on its own initiative investigate an 288
employer's compliance with Section 34a of Article II, Ohio 289
Constitution, and any law or regulation implementing Section 34a 290
of Article II, Ohio Constitution. The employer shall make 291
available to the state any records related to such investigation 292
and other information required for enforcement of Section 34a of 293
Article II, Ohio Constitution or any law or regulation 294
implementing Section 34a of Article II, Ohio Constitution. The 295
state shall investigate an employer's compliance with this 296
section in accordance with the procedures described in section 297
4111.04 of the Revised Code. All records and information related 298
to investigations by the state are confidential and are not a 299
public record subject to section 149.43 of the Revised Code. 300
This division does not prevent the state from releasing to or 301
exchanging with other state and federal wage and hour regulatory 302
authorities information related to investigations. 303

(J) In accordance with Section 34a of Article II, Ohio 304
Constitution, damages shall be calculated as an additional two 305
times the amount of the back wages and in the case of a 306
violation of an anti-retaliation provision an amount set by the 307
state or court sufficient to compensate the employee and deter 308
future violations, but not less than one hundred fifty dollars 309
for each day that the violation continued. The "not less than 310
one hundred fifty dollar" penalty specified in division (J) of 311
this section shall be imposed only for violations of the anti- 312
retaliation provision in Section 34a of Article II, Ohio 313
Constitution. 314

(K) In accordance with Section 34a of Article II, Ohio 315
Constitution, an action for equitable and monetary relief may be 316
brought against an employer by the attorney general and/or an 317
employee or person acting on behalf of an employee or all 318
similarly situated employees in any court of competent 319
jurisdiction, including the court of common pleas of an 320
employee's county of residence, for any violation of Section 34a 321
of Article II, Ohio Constitution, or any law or regulation 322
implementing its provisions within three years of the violation 323
or of when the violation ceased if it was of a continuing 324
nature, or within one year after notification to the employee of 325
final disposition by the state of a complaint for the same 326
violation, whichever is later. 327

(1) As used in division (K) of this section, 328
"notification" means the date on which the notice was sent to 329
the employee by the state. 330

(2) No employee shall join as a party plaintiff in any 331
civil action that is brought under division (K) of this section 332
by an employee, person acting on behalf of an employee, or 333
person acting on behalf of all similarly situated employees 334
unless that employee first gives written consent to become such 335
a party plaintiff and that consent is filed with the court in 336
which the action is brought. 337

(3) A civil action regarding an alleged violation of this 338
section shall be maintained only under division (K) of this 339
section. This division does not preclude the joinder in a single 340
civil action of an action under this division and an action 341
under section 4111.10 of the Revised Code. 342

(4) Any agreement between an employee and employer to work 343
for less than the wage rate specified in ~~Section 34a of Article~~ 344

~~II, Ohio Constitution section 4111.02 of the Revised Code,~~ is no 345
defense to an action under this section. 346

(L) In accordance with Section 34a of Article II, Ohio 347
Constitution, there shall be no exhaustion requirement, no 348
procedural, pleading, or burden of proof requirements beyond 349
those that apply generally to civil suits in order to maintain 350
such action and no liability for costs or attorney's fees on an 351
employee except upon a finding that such action was frivolous in 352
accordance with the same standards that apply generally in civil 353
suits. Nothing in division (L) of this section affects the right 354
of an employer and employee to agree to submit a dispute under 355
this section to alternative dispute resolution, including, but 356
not limited to, arbitration, in lieu of maintaining the civil 357
suit specified in division (K) of this section. Nothing in this 358
division limits the state's ability to investigate or enforce 359
this section. 360

(M) An employer who provides such information specified in 361
Section 34a of Article II, Ohio Constitution, shall be immune 362
from any civil liability for injury, death, or loss to person or 363
property that otherwise might be incurred or imposed as a result 364
of providing that information to an employee or person acting on 365
behalf of an employee in response to a request by the employee 366
or person, and the employer shall not be subject to the 367
provisions of Chapters 1347. and 1349. of the Revised Code to 368
the extent that such provisions would otherwise apply. As used 369
in division (M) of this section, "such information," "acting on 370
behalf of an employee," and "request" have the same meanings as 371
in division (G) of this section. 372

(N) As used in this section, "the state" means the 373
director of commerce. 374

Section 2. That existing sections 4111.02, 4111.09, and	375
4111.14 and section 4111.07 of the Revised Code are hereby	376
repealed.	377