

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 90

**Senators Thomas, Craig
Cosponsors: Senators Antonio, Williams, Fedor**

A BILL

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

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

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

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

(a) During the period beginning January 1, 2020, and
ending December 31, 2020, twelve dollars per hour;

(b) During the period beginning January 1, 2021, and
ending December 31, 2021, thirteen dollars per hour;

(c) During the period beginning January 1, 2022, and 18
ending December 31, 2022, fourteen dollars per hour; 19

(d) Beginning January 1, 2023, 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, 2023, 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) (g) 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

(C) In accordance with Section 34a of Article II, Ohio 117
Constitution, the state may issue licenses to employers 118
authorizing payment of a wage below that required by Section 34a 119
of Article II, Ohio Constitution, or section 4111.02 of the 120
Revised Code to individuals with mental or physical disabilities 121
that may otherwise adversely affect their opportunity for 122
employment. In issuing such licenses, the state shall abide by 123
the rules adopted pursuant to section 4111.06 of the Revised 124
Code. 125

(D) (1) In accordance with Section 34a of Article II, Ohio 126
Constitution, individuals employed in or about the property of 127
an employer or an individual's residence on a casual basis are 128
not included within the coverage of Section 34a of Article II, 129
Ohio Constitution. As used in division (D) of this section: 130

(a) "Casual basis" means employment that is irregular or 131
intermittent and that is not performed by an individual whose 132
vocation is to be employed in or about the property of the 133
employer or individual's residence. In construing who is 134
employed on a "casual basis," due consideration and great weight 135
shall be given to the United States department of labor's and 136

federal courts' interpretations of the term "casual basis" under 137
the Fair Labor Standards Act and its regulations. 138

(b) "An individual employed in or about the property of an 139
employer or individual's residence" means an individual employed 140
on a casual basis or an individual employed in or about a 141
residence on a casual basis, respectively. 142

(2) In accordance with Section 34a of Article II, Ohio 143
Constitution, employees of a solely family-owned and operated 144
business who are family members of an owner are not included 145
within the coverage of Section 34a of Article II, Ohio 146
Constitution. As used in division (D)(2) of this section, 147
"family member" means a parent, spouse, child, stepchild, 148
sibling, grandparent, grandchild, or other member of an owner's 149
immediate family. 150

(E) In accordance with Section 34a of Article II, Ohio 151
Constitution, an employer shall at the time of hire provide an 152
employee with the employer's name, address, telephone number, 153
and other contact information and update such information when 154
it changes. As used in division (E) of this section: 155

(1) "Other contact information" may include, where 156
applicable, the address of the employer's internet site on the 157
world wide web, the employer's electronic mail address, fax 158
number, or the name, address, and telephone number of the 159
employer's statutory agent. "Other contact information" does not 160
include the name, address, telephone number, fax number, 161
internet site address, or electronic mail address of any 162
employee, shareholder, officer, director, supervisor, manager, 163
or other individual employed by or associated with an employer. 164

(2) "When it changes" means that the employer shall 165

provide its employees with the change in its name, address, 166
telephone number, or other contact information within sixty 167
business days after the change occurs. The employer shall 168
provide the changed information by using any of its usual 169
methods of communicating with its employees, including, but not 170
limited to, listing the change on the employer's internet site 171
on the world wide web, internal computer network, or a bulletin 172
board where it commonly posts employee communications or by 173
insertion or inclusion with employees' paychecks or pay stubs. 174

(F) In accordance with Section 34a of Article II, Ohio 175
Constitution, an employer shall maintain a record of the name, 176
address, occupation, pay rate, hours worked for each day worked, 177
and each amount paid an employee for a period of not less than 178
three years following the last date the employee was employed by 179
that employer. As used in division (F) of this section: 180

(1) "Address" means an employee's home address as 181
maintained in the employer's personnel file or personnel 182
database for that employee. 183

(2) (a) With respect to employees who are not exempt from 184
the overtime pay requirements of the Fair Labor Standards Act or 185
this chapter, "pay rate" means an employee's base rate of pay. 186

(b) With respect to employees who are exempt from the 187
overtime pay requirements of the Fair Labor Standards Act or 188
this chapter, "pay rate" means an employee's annual base salary 189
or other rate of pay by which the particular employee qualifies 190
for that exemption under the Fair Labor Standards Act or this 191
chapter, but does not include bonuses, stock options, 192
incentives, deferred compensation, or any other similar form of 193
compensation. 194

(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 225
employer is not required to keep those records under the Fair 226
Labor Standards Act and its regulations or individuals who are 227
not subject to the overtime pay requirements specified in 228
section 4111.03 of the Revised Code. 229

(5) "Each amount paid an employee" means the total gross 230
wages paid to an employee for each pay period. As used in 231
division (F) (5) of this section, "pay period" means the period 232
of time designated by an employer to pay an employee the 233
employee's gross wages in accordance with the employer's payroll 234
practices under section 4113.15 of the Revised Code. 235

(G) In accordance with Section 34a of Article II, Ohio 236
Constitution, an employer must provide such information without 237
charge to an employee or person acting on behalf of an employee 238
upon request. As used in division (G) of this section: 239

(1) "Such information" means the name, address, 240
occupation, pay rate, hours worked for each day worked, and each 241
amount paid for the specific employee who has requested that 242
specific employee's own information and does not include the 243
name, address, occupation, pay rate, hours worked for each day 244
worked, or each amount paid of any other employee of the 245
employer. "Such information" does not include hours worked for 246
each day worked by individuals for whom an employer is not 247
required to keep that information under the Fair Labor Standards 248
Act and its regulations or individuals who are not subject to 249
the overtime pay requirements specified in section 4111.03 of 250
the Revised Code. 251

(2) "Acting on behalf of an employee" means a person 252
acting on behalf of an employee as any of the following: 253

(a) The certified or legally recognized collective bargaining representative for that employee under the applicable federal law or Chapter 4117. of the Revised Code;	254 255 256
(b) The employee's attorney;	257
(c) The employee's parent, guardian, or legal custodian.	258
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.	259 260 261 262 263
(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:	264 265 266 267
(a) The employer and the employee or person acting on behalf of the employee agree to some alternative time period for providing the information.	268 269 270
(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.	271 272 273
(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	274 275 276 277 278 279 280 281 282

employee whose information is being requested and notarized and 283
that reasonably specifies the particular information being 284
requested. 285

(H) In accordance with Section 34a of Article II, Ohio 286
Constitution, an employee, person acting on behalf of one or 287
more employees, and any other interested party may file a 288
complaint with the state for a violation of any provision of 289
Section 34a of Article II, Ohio Constitution, or any law or 290
regulation implementing its provisions. Such complaint shall be 291
promptly investigated and resolved by the state. The employee's 292
name shall be kept confidential unless disclosure is necessary 293
to resolution of a complaint and the employee consents to 294
disclosure. As used in division (H) of this section: 295

(1) "Complaint" means a complaint of an alleged violation 296
pertaining to harm suffered by the employee filing the 297
complaint, by a person acting on behalf of one or more 298
employees, or by an interested party. 299

(2) "Acting on behalf of one or more employees" has the 300
same meaning as "acting on behalf of an employee" in division 301
(G) (2) of this section. Each employee must provide a separate 302
written and notarized authorization before the person acting on 303
that employee's or those employees' behalf may request the name, 304
address, occupation, pay rate, hours worked for each day worked, 305
and each amount paid for the particular employee. 306

(3) "Interested party" means a party who alleges to be 307
injured by the alleged violation and who has standing to file a 308
complaint under common law principles of standing. 309

(4) "Resolved by the state" means that the complaint has 310
been resolved to the satisfaction of the state. 311

(5) "Shall be kept confidential" means that the state 312
shall keep the name of the employee confidential as required by 313
division (H) of this section. 314

(I) In accordance with Section 34a of Article II, Ohio 315
Constitution, the state may on its own initiative investigate an 316
employer's compliance with Section 34a of Article II, Ohio 317
Constitution, and any law or regulation implementing Section 34a 318
of Article II, Ohio Constitution. The employer shall make 319
available to the state any records related to such investigation 320
and other information required for enforcement of Section 34a of 321
Article II, Ohio Constitution or any law or regulation 322
implementing Section 34a of Article II, Ohio Constitution. The 323
state shall investigate an employer's compliance with this 324
section in accordance with the procedures described in section 325
4111.04 of the Revised Code. All records and information related 326
to investigations by the state are confidential and are not a 327
public record subject to section 149.43 of the Revised Code. 328
This division does not prevent the state from releasing to or 329
exchanging with other state and federal wage and hour regulatory 330
authorities information related to investigations. 331

(J) In accordance with Section 34a of Article II, Ohio 332
Constitution, damages shall be calculated as an additional two 333
times the amount of the back wages and in the case of a 334
violation of an anti-retaliation provision an amount set by the 335
state or court sufficient to compensate the employee and deter 336
future violations, but not less than one hundred fifty dollars 337
for each day that the violation continued. The "not less than 338
one hundred fifty dollar" penalty specified in division (J) of 339
this section shall be imposed only for violations of the anti- 340
retaliation provision in Section 34a of Article II, Ohio 341
Constitution. 342

(K) In accordance with Section 34a of Article II, Ohio 343
Constitution, an action for equitable and monetary relief may be 344
brought against an employer by the attorney general and/or an 345
employee or person acting on behalf of an employee or all 346
similarly situated employees in any court of competent 347
jurisdiction, including the court of common pleas of an 348
employee's county of residence, for any violation of Section 34a 349
of Article II, Ohio Constitution, or any law or regulation 350
implementing its provisions within three years of the violation 351
or of when the violation ceased if it was of a continuing 352
nature, or within one year after notification to the employee of 353
final disposition by the state of a complaint for the same 354
violation, whichever is later. 355

(1) As used in division (K) of this section, 356
"notification" means the date on which the notice was sent to 357
the employee by the state. 358

(2) No employee shall join as a party plaintiff in any 359
civil action that is brought under division (K) of this section 360
by an employee, person acting on behalf of an employee, or 361
person acting on behalf of all similarly situated employees 362
unless that employee first gives written consent to become such 363
a party plaintiff and that consent is filed with the court in 364
which the action is brought. 365

(3) A civil action regarding an alleged violation of this 366
section shall be maintained only under division (K) of this 367
section. This division does not preclude the joinder in a single 368
civil action of an action under this division and an action 369
under section 4111.10 of the Revised Code. 370

(4) Any agreement between an employee and employer to work 371
for less than the wage rate specified in ~~Section 34a of Article~~ 372

~~II, Ohio Constitution section 4111.02 of the Revised Code,~~ is no 373
defense to an action under this section. 374

(L) In accordance with Section 34a of Article II, Ohio 375
Constitution, there shall be no exhaustion requirement, no 376
procedural, pleading, or burden of proof requirements beyond 377
those that apply generally to civil suits in order to maintain 378
such action and no liability for costs or attorney's fees on an 379
employee except upon a finding that such action was frivolous in 380
accordance with the same standards that apply generally in civil 381
suits. Nothing in division (L) of this section affects the right 382
of an employer and employee to agree to submit a dispute under 383
this section to alternative dispute resolution, including, but 384
not limited to, arbitration, in lieu of maintaining the civil 385
suit specified in division (K) of this section. Nothing in this 386
division limits the state's ability to investigate or enforce 387
this section. 388

(M) An employer who provides such information specified in 389
Section 34a of Article II, Ohio Constitution, shall be immune 390
from any civil liability for injury, death, or loss to person or 391
property that otherwise might be incurred or imposed as a result 392
of providing that information to an employee or person acting on 393
behalf of an employee in response to a request by the employee 394
or person, and the employer shall not be subject to the 395
provisions of Chapters 1347. and 1349. of the Revised Code to 396
the extent that such provisions would otherwise apply. As used 397
in division (M) of this section, "such information," "acting on 398
behalf of an employee," and "request" have the same meanings as 399
in division (G) of this section. 400

(N) As used in this section, "the state" means the 401
director of commerce. 402

Section 2. That existing sections 4111.02, 4111.09, and	403
4111.14 of the Revised Code are hereby repealed.	404
Section 3. That section 4111.07 of the Revised Code is	405
hereby repealed.	406