

As Introduced

134th General Assembly

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H. B. No. 69

Representatives Kelly, Jarrells

Cosponsors: Representatives Miller, A., Smith, M., Brent, Leland, Sheehy, Skindell, Galonski, Crossman, Lepore-Hagan, Sweeney, Miller, J., Brown, Smith, K., Weinstein, Upchurch, Sykes, O'Brien, Howse, Boggs, Russo, Sobecki, Robinson, Crawley, Blackshear, Denson, Hicks-Hudson, Ingram, Boyd, Lightbody, Liston, West, Troy

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. 3

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

Section 1. That sections 4111.02, 4111.09, and 4111.14 of 4
the Revised Code be amended to read as follows: 5

Sec. 4111.02. ~~Every~~ (A) (1) Except as provided in divisions 6
(A) (2) and (3) of this section, every employer, as defined in 7
Section 34a of Article II, Ohio Constitution, shall pay each of 8
the employer's employees at a wage rate of not less than ~~the~~ 9
~~wage rate specified in Section 34a of Article II, Ohio~~ 10
~~Constitution~~ the following wage rates: 11

(a) During the period beginning January 1, 2022, and 12
ending December 31, 2022, ten dollars per hour; 13

(b) During the period beginning January 1, 2023, and 14
ending December 31, 2023, eleven dollars per hour; 15

(c) During the period beginning January 1, 2024, and 16
ending December 31, 2024, twelve dollars per hour; 17

(d) During the period beginning January 1, 2025, and 18
ending December 31, 2025, thirteen dollars per hour; 19

(e) During the period beginning January 1, 2026, and 20
ending December 31, 2026, fourteen dollars per hour; 21

(f) Beginning January 1, 2027, fifteen dollars per hour. 22

(2) If an employer is able to demonstrate that an employee 23
receives tips that combined with the wages paid by the employer 24
are equal to or greater than the minimum wage rate for all hours 25
worked, the employer may pay the employee at a rate of less 26
than, but not less than half, the minimum wage rate required by 27
division (A)(1) of this section. 28

(3) Employees under sixteen years of age and employees of 29
businesses with annual gross receipts of three hundred twenty- 30
three thousand dollars or less for the preceding calendar year 31
shall be paid a wage rate of not less than that established 32
under the federal "Fair Labor Standards Act," 29 U.S.C. 203, et 33
seq., or its successor law. The director of commerce shall 34
increase the gross revenue figure each year beginning the first 35
day of January immediately following the effective date of this 36
amendment in accordance with Ohio Constitution, Article II, 37
Section 34a. 38

~~The~~ (B) On September 30, 2027, and every thirtieth day of 39
September thereafter, the director of commerce annually shall 40
adjust the wage rate as specified in division (A)(1)(f) of this 41
section in accordance with Section 34a of Article II, Ohio 42
Constitution. The adjusted wage rate takes effect on the first 43
day of January immediately following the date of the adjustment. 44

(C) No political subdivision shall establish a minimum wage rate different from the wage rate required under this section.

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

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

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

(1) Ensure that Ohio employees, as defined in division (B) (1) of this section, are paid the wage rate required by section 4111.02 of the Revised Code in accordance with Section 34a of

Article II, Ohio Constitution;	75
(2) Ensure that covered Ohio employers maintain certain records that are directly related to the enforcement of the wage rate requirements in of Section 34a of Article II, Ohio Constitution, <u>and section 4111.02 of the Revised Code;</u>	76 77 78 79
(3) Ensure that Ohio employees who are paid the wage rate required by Section 34a of Article II, Ohio Constitution <u>section 4111.02 of the Revised Code</u> , may enforce their right to receive that wage rate in the manner set forth in Section 34a of Article II, Ohio Constitution; and	80 81 82 83 84
(4) Protect the privacy of Ohio employees' pay and personal information specified in Section 34a of Article II, Ohio Constitution, by restricting an employee's access, and access by a person acting on behalf of that employee, to the employee's own pay and personal information.	85 86 87 88 89
(B) In accordance with Section 34a of Article II, Ohio Constitution, the terms "employer," "employee," "employ," "person," and "independent contractor" have the same meanings as in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 203, as amended. In construing the meaning of these terms, due consideration and great weight shall be given to the United States department of labor's and federal courts' interpretations of those terms under the Fair Labor Standards Act and its regulations. As used in division (B) of this section:	90 91 92 93 94 95 96 97 98 99
(1) "Employee" means individuals employed in Ohio, but does not mean individuals who are excluded from the definition of "employee" under 29 U.S.C. 203(e) or individuals who are exempted from the minimum wage requirements in 29 U.S.C. 213 and	100 101 102 103

from the definition of "employee" in this chapter. 104

(2) "Employ" and "employee" do not include any person 105
acting as a volunteer. In construing who is a volunteer, 106
"volunteer" shall have the same meaning as in sections 553.101 107
to 553.106 of Title 29 of the Code of Federal Regulations, as 108
amended, and due consideration and great weight shall be given 109
to the United States department of labor's and federal courts' 110
interpretations of the term "volunteer" under the Fair Labor 111
Standards Act and its regulations. 112

(3) "Employer" does not include a franchisor with respect 113
to the franchisor's relationship with a franchisee or an 114
employee of a franchisee, unless the franchisor agrees to assume 115
that role in writing or a court of competent jurisdiction 116
determines that the franchisor exercises a type or degree of 117
control over the franchisee or the franchisee's employees that 118
is not customarily exercised by a franchisor for the purpose of 119
protecting the franchisor's trademark, brand, or both. For 120
purposes of this division, "franchisor" and "franchisee" have 121
the same meanings as in 16 C.F.R. 436.1. 122

(4) Subject to division (B)(5) of this section, "employee" 123
does not include an individual who operates a vehicle or vessel 124
in the performance of services for or on behalf of a motor 125
carrier transporting property and to whom all of the following 126
factors apply: 127

(a) The individual owns the vehicle or vessel that is used 128
in performing the services for or on behalf of the carrier, or 129
the individual leases the vehicle or vessel under a bona fide 130
lease agreement that is not a temporary replacement lease 131
agreement. For purposes of this division, a bona fide lease 132
agreement does not include an agreement between the individual 133

and the motor carrier transporting property for which, or on	134
whose behalf, the individual provides services.	135
(b) The individual is responsible for supplying the	136
necessary personal services to operate the vehicle or vessel	137
used to provide the service.	138
(c) The compensation paid to the individual is based on	139
factors related to work performed, including on a mileage-based	140
rate or a percentage of any schedule of rates, and not solely on	141
the basis of the hours or time expended.	142
(d) The individual substantially controls the means and	143
manner of performing the services, in conformance with	144
regulatory requirements and specifications of the shipper.	145
(e) The individual enters into a written contract with the	146
carrier for whom the individual is performing the services that	147
describes the relationship between the individual and the	148
carrier to be that of an independent contractor and not that of	149
an employee.	150
(f) The individual is responsible for substantially all of	151
the principal operating costs of the vehicle or vessel and	152
equipment used to provide the services, including maintenance,	153
fuel, repairs, supplies, vehicle or vessel insurance, and	154
personal expenses, except that the individual may be paid by the	155
carrier the carrier's fuel surcharge and incidental costs,	156
including tolls, permits, and lumper fees.	157
(g) The individual is responsible for any economic loss or	158
economic gain from the arrangement with the carrier.	159
(5) A motor carrier may elect to consider an individual	160
described in division (B) (4) of this section as an employee for	161
purposes of this section.	162

(6) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.	163 164
(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, <u>or section 4111.02 of the Revised Code</u> to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment. In issuing such licenses, the state shall abide by the rules adopted pursuant to section 4111.06 of the Revised Code.	165 166 167 168 169 170 171 172 173
(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:	174 175 176 177 178
(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.	179 180 181 182 183 184 185 186
(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.	187 188 189 190
(2) In accordance with Section 34a of Article II, Ohio	191

Constitution, employees of a solely family-owned and operated 192
business who are family members of an owner are not included 193
within the coverage of Section 34a of Article II, Ohio 194
Constitution. As used in division (D) (2) of this section, 195
"family member" means a parent, spouse, child, stepchild, 196
sibling, grandparent, grandchild, or other member of an owner's 197
immediate family. 198

(E) In accordance with Section 34a of Article II, Ohio 199
Constitution, an employer shall at the time of hire provide an 200
employee with the employer's name, address, telephone number, 201
and other contact information and update such information when 202
it changes. As used in division (E) of this section: 203

(1) "Other contact information" may include, where 204
applicable, the address of the employer's internet site on the 205
world wide web, the employer's electronic mail address, fax 206
number, or the name, address, and telephone number of the 207
employer's statutory agent. "Other contact information" does not 208
include the name, address, telephone number, fax number, 209
internet site address, or electronic mail address of any 210
employee, shareholder, officer, director, supervisor, manager, 211
or other individual employed by or associated with an employer. 212

(2) "When it changes" means that the employer shall 213
provide its employees with the change in its name, address, 214
telephone number, or other contact information within sixty 215
business days after the change occurs. The employer shall 216
provide the changed information by using any of its usual 217
methods of communicating with its employees, including, but not 218
limited to, listing the change on the employer's internet site 219
on the world wide web, internal computer network, or a bulletin 220
board where it commonly posts employee communications or by 221

insertion or inclusion with employees' paychecks or pay stubs.	222
(F) In accordance with Section 34a of Article II, Ohio	223
Constitution, an employer shall maintain a record of the name,	224
address, occupation, pay rate, hours worked for each day worked,	225
and each amount paid an employee for a period of not less than	226
three years following the last date the employee was employed by	227
that employer. As used in division (F) of this section:	228
(1) "Address" means an employee's home address as	229
maintained in the employer's personnel file or personnel	230
database for that employee.	231
(2) (a) With respect to employees who are not exempt from	232
the overtime pay requirements of the Fair Labor Standards Act or	233
this chapter, "pay rate" means an employee's base rate of pay.	234
(b) With respect to employees who are exempt from the	235
overtime pay requirements of the Fair Labor Standards Act or	236
this chapter, "pay rate" means an employee's annual base salary	237
or other rate of pay by which the particular employee qualifies	238
for that exemption under the Fair Labor Standards Act or this	239
chapter, but does not include bonuses, stock options,	240
incentives, deferred compensation, or any other similar form of	241
compensation.	242
(3) "Record" means the name, address, occupation, pay	243
rate, hours worked for each day worked, and each amount paid an	244
employee in one or more documents, databases, or other paper or	245
electronic forms of record-keeping maintained by an employer. No	246
one particular method or form of maintaining such a record or	247
records is required under this division. An employer is not	248
required to create or maintain a single record containing only	249
the employee's name, address, occupation, pay rate, hours worked	250

for each day worked, and each amount paid an employee. An 251
employer shall maintain a record or records from which the 252
employee or person acting on behalf of that employee could 253
reasonably review the information requested by the employee or 254
person. 255

An employer is not required to maintain the records 256
specified in division (F) (3) of this section for any period 257
before January 1, 2007. On and after January 1, 2007, the 258
employer shall maintain the records required by division (F) (3) 259
of this section for three years from the date the hours were 260
worked by the employee and for three years after the date the 261
employee's employment ends. 262

(4) (a) Except for individuals specified in division (F) (4) 263
(b) of this section, "hours worked for each day worked" means 264
the total amount of time worked by an employee in whatever 265
increments the employer uses for its payroll purposes during a 266
day worked by the employee. An employer is not required to keep 267
a record of the time of day an employee begins and ends work on 268
any given day. As used in division (F) (4) of this section, "day" 269
means a fixed period of twenty-four consecutive hours during 270
which an employee performs work for an employer. 271

(b) An employer is not required to keep records of "hours 272
worked for each day worked" for individuals for whom the 273
employer is not required to keep those records under the Fair 274
Labor Standards Act and its regulations or individuals who are 275
not subject to the overtime pay requirements specified in 276
section 4111.03 of the Revised Code. 277

(5) "Each amount paid an employee" means the total gross 278
wages paid to an employee for each pay period. As used in 279
division (F) (5) of this section, "pay period" means the period 280

of time designated by an employer to pay an employee the 281
employee's gross wages in accordance with the employer's payroll 282
practices under section 4113.15 of the Revised Code. 283

(G) In accordance with Section 34a of Article II, Ohio 284
Constitution, an employer must provide such information without 285
charge to an employee or person acting on behalf of an employee 286
upon request. As used in division (G) of this section: 287

(1) "Such information" means the name, address, 288
occupation, pay rate, hours worked for each day worked, and each 289
amount paid for the specific employee who has requested that 290
specific employee's own information and does not include the 291
name, address, occupation, pay rate, hours worked for each day 292
worked, or each amount paid of any other employee of the 293
employer. "Such information" does not include hours worked for 294
each day worked by individuals for whom an employer is not 295
required to keep that information under the Fair Labor Standards 296
Act and its regulations or individuals who are not subject to 297
the overtime pay requirements specified in section 4111.03 of 298
the Revised Code. 299

(2) "Acting on behalf of an employee" means a person 300
acting on behalf of an employee as any of the following: 301

(a) The certified or legally recognized collective 302
bargaining representative for that employee under the applicable 303
federal law or Chapter 4117. of the Revised Code; 304

(b) The employee's attorney; 305

(c) The employee's parent, guardian, or legal custodian. 306

A person "acting on behalf of an employee" must be 307
specifically authorized by an employee in order to make a 308
request for that employee's own name, address, occupation, pay 309

rate, hours worked for each day worked, and each amount paid to 310
that employee. 311

(3) "Provide" means that an employer shall provide the 312
requested information within thirty business days after the date 313
the employer receives the request, unless either of the 314
following occurs: 315

(a) The employer and the employee or person acting on 316
behalf of the employee agree to some alternative time period for 317
providing the information. 318

(b) The thirty-day period would cause a hardship on the 319
employer under the circumstances, in which case the employer 320
must provide the requested information as soon as practicable. 321

(4) A "request" made by an employee or a person acting on 322
behalf of an employee means a request by an employee or a person 323
acting on behalf of an employee for the employee's own 324
information. The employer may require that the employee provide 325
the employer with a written request that has been signed by the 326
employee and notarized and that reasonably specifies the 327
particular information being requested. The employer may require 328
that the person acting on behalf of an employee provide the 329
employer with a written request that has been signed by the 330
employee whose information is being requested and notarized and 331
that reasonably specifies the particular information being 332
requested. 333

(H) In accordance with Section 34a of Article II, Ohio 334
Constitution, an employee, person acting on behalf of one or 335
more employees, and any other interested party may file a 336
complaint with the state for a violation of any provision of 337
Section 34a of Article II, Ohio Constitution, or any law or 338

regulation implementing its provisions. Such complaint shall be 339
promptly investigated and resolved by the state. The employee's 340
name shall be kept confidential unless disclosure is necessary 341
to resolution of a complaint and the employee consents to 342
disclosure. As used in division (H) of this section: 343

(1) "Complaint" means a complaint of an alleged violation 344
pertaining to harm suffered by the employee filing the 345
complaint, by a person acting on behalf of one or more 346
employees, or by an interested party. 347

(2) "Acting on behalf of one or more employees" has the 348
same meaning as "acting on behalf of an employee" in division 349
(G) (2) of this section. Each employee must provide a separate 350
written and notarized authorization before the person acting on 351
that employee's or those employees' behalf may request the name, 352
address, occupation, pay rate, hours worked for each day worked, 353
and each amount paid for the particular employee. 354

(3) "Interested party" means a party who alleges to be 355
injured by the alleged violation and who has standing to file a 356
complaint under common law principles of standing. 357

(4) "Resolved by the state" means that the complaint has 358
been resolved to the satisfaction of the state. 359

(5) "Shall be kept confidential" means that the state 360
shall keep the name of the employee confidential as required by 361
division (H) of this section. 362

(I) In accordance with Section 34a of Article II, Ohio 363
Constitution, the state may on its own initiative investigate an 364
employer's compliance with Section 34a of Article II, Ohio 365
Constitution, and any law or regulation implementing Section 34a 366
of Article II, Ohio Constitution. The employer shall make 367

available to the state any records related to such investigation 368
and other information required for enforcement of Section 34a of 369
Article II, Ohio Constitution or any law or regulation 370
implementing Section 34a of Article II, Ohio Constitution. The 371
state shall investigate an employer's compliance with this 372
section in accordance with the procedures described in section 373
4111.04 of the Revised Code. All records and information related 374
to investigations by the state are confidential and are not a 375
public record subject to section 149.43 of the Revised Code. 376
This division does not prevent the state from releasing to or 377
exchanging with other state and federal wage and hour regulatory 378
authorities information related to investigations. 379

(J) In accordance with Section 34a of Article II, Ohio 380
Constitution, damages shall be calculated as an additional two 381
times the amount of the back wages and in the case of a 382
violation of an anti-retaliation provision an amount set by the 383
state or court sufficient to compensate the employee and deter 384
future violations, but not less than one hundred fifty dollars 385
for each day that the violation continued. The "not less than 386
one hundred fifty dollar" penalty specified in division (J) of 387
this section shall be imposed only for violations of the anti- 388
retaliation provision in Section 34a of Article II, Ohio 389
Constitution. 390

(K) In accordance with Section 34a of Article II, Ohio 391
Constitution, an action for equitable and monetary relief may be 392
brought against an employer by the attorney general and/or an 393
employee or person acting on behalf of an employee or all 394
similarly situated employees in any court of competent 395
jurisdiction, including the court of common pleas of an 396
employee's county of residence, for any violation of Section 34a 397
of Article II, Ohio Constitution, or any law or regulation 398

implementing its provisions within three years of the violation 399
or of when the violation ceased if it was of a continuing 400
nature, or within one year after notification to the employee of 401
final disposition by the state of a complaint for the same 402
violation, whichever is later. 403

(1) As used in division (K) of this section, 404
"notification" means the date on which the notice was sent to 405
the employee by the state. 406

(2) No employee shall join as a party plaintiff in any 407
civil action that is brought under division (K) of this section 408
by an employee, person acting on behalf of an employee, or 409
person acting on behalf of all similarly situated employees 410
unless that employee first gives written consent to become such 411
a party plaintiff and that consent is filed with the court in 412
which the action is brought. 413

(3) A civil action regarding an alleged violation of this 414
section shall be maintained only under division (K) of this 415
section. This division does not preclude the joinder in a single 416
civil action of an action under this division and an action 417
under section 4111.10 of the Revised Code. 418

(4) Any agreement between an employee and employer to work 419
for less than the wage rate specified in ~~Section 34a of Article~~ 420
~~II, Ohio Constitution~~section 4111.02 of the Revised Code, is no 421
defense to an action under this section. 422

(L) In accordance with Section 34a of Article II, Ohio 423
Constitution, there shall be no exhaustion requirement, no 424
procedural, pleading, or burden of proof requirements beyond 425
those that apply generally to civil suits in order to maintain 426
such action and no liability for costs or attorney's fees on an 427

employee except upon a finding that such action was frivolous in 428
accordance with the same standards that apply generally in civil 429
suits. Nothing in division (L) of this section affects the right 430
of an employer and employee to agree to submit a dispute under 431
this section to alternative dispute resolution, including, but 432
not limited to, arbitration, in lieu of maintaining the civil 433
suit specified in division (K) of this section. Nothing in this 434
division limits the state's ability to investigate or enforce 435
this section. 436

(M) An employer who provides such information specified in 437
Section 34a of Article II, Ohio Constitution, shall be immune 438
from any civil liability for injury, death, or loss to person or 439
property that otherwise might be incurred or imposed as a result 440
of providing that information to an employee or person acting on 441
behalf of an employee in response to a request by the employee 442
or person, and the employer shall not be subject to the 443
provisions of Chapters 1347. and 1349. of the Revised Code to 444
the extent that such provisions would otherwise apply. As used 445
in division (M) of this section, "such information," "acting on 446
behalf of an employee," and "request" have the same meanings as 447
in division (G) of this section. 448

(N) As used in this section, "the state" means the 449
director of commerce. 450

Section 2. That existing sections 4111.02, 4111.09, and 451
4111.14 of the Revised Code are hereby repealed. 452

Section 3. That section 4111.07 of the Revised Code is 453
hereby repealed. 454