

JAN 17 2014

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# A BILL FOR AN ACT

RELATING TO WAGE AND HOUR LAW.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 387-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "employee" to read as  
3 follows:

4           "Employee" includes any individual employed by an  
5 employer, but shall not include any individual employed:

6           (1) At a guaranteed compensation totaling [~~\$2,000~~] \$5,000  
7 or more a month, whether paid weekly, biweekly, or  
8 monthly;

9           (2) In agriculture for any workweek in which the employer  
10 of the individual employs less than twenty employees  
11 or in agriculture for any workweek in which the  
12 individual is engaged in coffee harvesting;

13           (3) In or about the home of the individual's employer:

14           (A) In domestic service on a casual basis; or

15           (B) Providing companionship services for the aged or  
16 infirm;

17           (4) As a house parent in or about any home or shelter  
18 maintained for child welfare purposes by a charitable



- 1 organization exempt from income tax under section 501  
2 of the federal Internal Revenue Code;
- 3 (5) By the individual's brother, sister, brother-in-law,  
4 sister-in-law, son, daughter, spouse, parent, or  
5 parent-in-law;
- 6 (6) In a bona fide executive, administrative, supervisory,  
7 or professional capacity or in the capacity of outside  
8 salesperson or as an outside collector;
- 9 (7) In the propagating, catching, taking, harvesting,  
10 cultivating, or farming of any kind of fish,  
11 shellfish, crustacean, sponge, seaweed, or other  
12 aquatic forms of animal or vegetable life, including  
13 the going to and returning from work and the loading  
14 and unloading of such products prior to first  
15 processing;
- 16 (8) On a ship or vessel and who has a Merchant Mariners  
17 Document issued by the United States Coast Guard;
- 18 (9) As a driver of a vehicle carrying passengers for hire  
19 operated solely on call from a fixed stand;
- 20 (10) As a golf caddy;
- 21 (11) By a nonprofit school during the time such individual  
22 is a student attending such school;



1           (12) In any capacity if by reason of the employee's  
2           employment in such capacity and during the term  
3           thereof the minimum wage which may be paid the  
4           employee or maximum hours which the employee may work  
5           during any workweek without the payment of overtime,  
6           are prescribed by the federal Fair Labor Standards Act  
7           of 1938, as amended, or as the same may be further  
8           amended from time to time; provided that if the  
9           minimum wage which may be paid the employee under the  
10          Fair Labor Standards Act for any workweek is less than  
11          the minimum wage prescribed by section 387-2, then  
12          section 387-2 shall apply in respect to the employees  
13          for such workweek; provided further that if the  
14          maximum workweek established for the employee under  
15          the Fair Labor Standards Act for the purposes of  
16          overtime compensation is higher than the maximum  
17          workweek established under section 387-3, then section  
18          387-3 shall apply in respect to such employee for such  
19          workweek; except that the employee's regular rate in  
20          such an event shall be the employee's regular rate as  
21          determined under the Fair Labor Standards Act;



# S.B. NO. 2366

1       (13) As a seasonal youth camp staff member in a resident  
2           situation in a youth camp sponsored by charitable,  
3           religious, or nonprofit organizations exempt from  
4           income tax under section 501 of the federal Internal  
5           Revenue Code or in a youth camp accredited by the  
6           American Camping Association; or


7       (14) As an automobile salesperson primarily engaged in the  
8           selling of automobiles or trucks if employed by an  
9           automobile or truck dealer licensed under chapter  
10          437."

11       SECTION 2. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13       SECTION 3. This Act shall take effect upon its approval.

14

INTRODUCED BY:





# S.B. NO. 2366

**Report Title:**

Wage and Hour Law; Minimum Compensation Exemption

**Description:**

Increases from \$2,000 to \$5,000 the amount of guaranteed monthly compensation required to exempt an individual from minimum wage, overtime, and record keeping requirements under the Hawaii Wage and Hour Law.

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