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# A BILL FOR AN ACT

RELATING TO THE 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~~] \$4,000  
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;



- 1 (4) As a house parent in or about any home or shelter  
2 maintained for child welfare purposes by a charitable  
3 organization exempt from income tax under section 501  
4 of the federal Internal Revenue Code;
- 5 (5) By the individual's [~~brother, sister, brother-in-law,~~  
6 ~~sister-in-law, son, daughter,~~] sibling,  
7 sibling-in-law, child, spouse, parent, or  
8 parent-in-law;
- 9 (6) In a bona fide executive, administrative, supervisory,  
10 or professional capacity or in the capacity of outside  
11 salesperson or as an outside collector;
- 12 (7) In the propagating, catching, taking, harvesting,  
13 cultivating, or farming of any kind of fish,  
14 shellfish, crustacean, sponge, seaweed, or other  
15 aquatic forms of animal or vegetable life, including  
16 the going to and returning from work and the loading  
17 and unloading of [~~such~~] those products [~~prior to~~]  
18 before first processing;
- 19 (8) On a ship or vessel and who has a Merchant Mariners  
20 Document issued by the United States Coast Guard;



- 1       (9) As a driver of a vehicle carrying passengers for hire  
2             operated solely on call from a fixed stand;
- 3       (10) As a golf caddy;
- 4       (11) By a nonprofit school during the time [~~such~~] that the  
5             individual is a student attending [~~such~~] the school;
- 6       (12) In any capacity if by reason of the employee's  
7             employment, in [~~such~~] that capacity and during the  
8             term thereof, the minimum wage [~~which~~] that may be  
9             paid to the employee or maximum hours [~~which~~] that the  
10            employee may work during any workweek without the  
11            payment of overtime, are prescribed by the federal  
12            Fair Labor Standards Act of 1938, as amended, or as  
13            the same may be further amended from time to time;  
14            provided that if the minimum wage [~~which~~] that may be  
15            paid to the employee under the Fair Labor Standards  
16            Act for any workweek is less than the minimum wage  
17            prescribed by section 387-2, then section 387-2 shall  
18            apply in respect to the [~~employees~~] employee for  
19            [~~such~~] that workweek; provided further that if the  
20            maximum workweek established for the employee under  
21            the Fair Labor Standards Act for the purposes of



1 overtime compensation is higher than the maximum  
2 workweek established under section 387-3, then section  
3 387-3 shall apply in respect to [~~such~~] the employee  
4 for [~~such~~] that workweek; except that the employee's  
5 regular rate in [~~such-an~~] that event shall be the  
6 employee's regular rate as determined under the Fair  
7 Labor Standards Act;

8 (13) As a seasonal youth camp staff member in a resident  
9 situation in a youth camp sponsored by charitable,  
10 religious, or nonprofit organizations exempt from  
11 income tax under section 501 of the federal Internal  
12 Revenue Code or in a youth camp accredited by the  
13 American Camping Association; or

14 (14) As an automobile salesperson primarily engaged in the  
15 selling of automobiles or trucks if employed by an  
16 automobile or truck dealer licensed under chapter  
17 437."

18 SECTION 2. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

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



**Report Title:**

Wage and Hour Law; Employee; Guaranteed Compensation

**Description:**

Amending the definition of "employee" in Hawaii's Wage and Hour Law to exclude any employee who receives guaranteed compensation totaling \$4,000 or more a month. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

