
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. The legislature finds that the Fair Labor
2 Standards Act and Hawaii's wage and hour law were enacted to
3 protect the health, efficiency, and general well-being of
4 workers by prescribing minimum wage and overtime rates as well
5 as employer recordkeeping provisions.

6 Federal and state laws provide some exemptions that are
7 similar such as the exemptions in Title 29 Code of Federal
8 Regulations part 541 (Defining and Delimiting the Exemptions for
9 Executive, Administrative, Professional, Computer and Outside
10 Sales Employees) that provides narrow exemptions for certain
11 employees including those employed in bona fide executive,
12 administrative, and professional capacities. Hawaii's
13 corresponding law, chapter 387, Hawaii Revised Statutes,
14 provides similar exemptions including those employed in bona
15 fide executive, administrative, and professional capacities.

16 However, Hawaii's law also exempts any employee paid at a
17 guaranteed compensation of \$2,000 or more a month. These



1 workers are not protected by minimum wage and overtime rates and
2 their employers are not subject to the recordkeeping provisions
3 of Hawaii's wage and hour law.

4 Accordingly, the purpose of this Act is to provide minimum
5 wage and overtime protections to these workers and subject their
6 employers to the recordkeeping provisions of the law by
7 eliminating the exclusion of employees who receive guaranteed
8 compensation totaling \$2,000 or more a month from the definition
9 of employee in Hawaii's wage and hour law.

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

13 "Employee" includes any individual employed by an
14 employer, but shall not include any individual employed:

15 ~~[(1) At a guaranteed compensation totaling \$2,000 or more a~~
16 ~~month, whether paid weekly, biweekly, or monthly;~~

17 ~~(2)]~~ (1) In agriculture for any workweek in which the
18 employer of the individual employs less than twenty
19 employees or in agriculture for any workweek in which
20 the individual is engaged in coffee harvesting;



1 ~~[(3)]~~ (2) In or about the home of the individual's
2 employer:

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

4 (B) Providing companionship services for the aged or
5 infirm;

6 ~~[(4)]~~ (3) As a house parent in or about any home or shelter
7 maintained for child welfare purposes by a charitable
8 organization exempt from income tax under section 501
9 of the federal Internal Revenue Code;

10 ~~[(5)]~~ (4) By the individual's brother, sister, brother-in-
11 law, sister-in-law, son, daughter, spouse, parent, or
12 parent-in-law;

13 ~~[(6)]~~ (5) In a bona fide executive, administrative,
14 supervisory, or professional capacity or in the
15 capacity of outside salesperson or as an outside
16 collector;

17 ~~[(7)]~~ (6) In the propagating, catching, taking, harvesting,
18 cultivating, or farming of any kind of fish,
19 shellfish, crustacean, sponge, seaweed, or other
20 aquatic forms of animal or vegetable life, including
21 the going to and returning from work and the loading



1 and unloading of such products prior to first
2 processing;

3 ~~[(8)]~~ (7) On a ship or vessel and who has a Merchant
4 Mariners Document issued by the United States Coast
5 Guard;

6 ~~[(9)]~~ (8) As a driver of a vehicle carrying passengers for
7 hire operated solely on call from a fixed stand;

8 ~~[(10)]~~ (9) As a golf caddy;

9 ~~[(11)]~~ (10) By a nonprofit school during the time such
10 individual is a student attending such school;

11 ~~[(12)]~~ (11) In any capacity if by reason of the employee's
12 employment in such capacity and during the term
13 thereof the minimum wage which may be paid the
14 employee or maximum hours which the employee may work
15 during any workweek without the payment of overtime,
16 are prescribed by the federal Fair Labor Standards Act
17 of 1938, as amended, or as the same may be further
18 amended from time to time; provided that if the
19 minimum wage which may be paid the employee under the
20 Fair Labor Standards Act for any workweek is less than
21 the minimum wage prescribed by section 387-2, then



1 section 387-2 shall apply in respect to the employees
2 for such workweek; provided further that if the
3 maximum workweek established for the employee under
4 the Fair Labor Standards Act for the purposes of
5 overtime compensation is higher than the maximum
6 workweek established under section 387-3, then section
7 387-3 shall apply in respect to such employee for such
8 workweek; except that the employee's regular rate in
9 such an event shall be the employee's regular rate as
10 determined under the Fair Labor Standards Act;

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

17 ~~[(14)]~~ (13) As an automobile salesperson primarily engaged
18 in the selling of automobiles or trucks if employed by
19 an automobile or truck dealer licensed under chapter
20 437."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on January 1, 2050.

4



Report Title:

Wage and Hour Law; Employee; Guaranteed Compensation; Employer Recordkeeping

Description:

Expands the coverage of employees and employers covered under the minimum wage, overtime, and recordkeeping requirements of chapter 387, Hawaii Revised Statutes, by deleting from the definition of "employee" employees guaranteed a monthly compensation of \$2,000 or more. Effective 1/1/2050. (SD1)

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

