

**ACT 85**

A Bill for an Act Relating to Wages and Hours and Amending Chapter 94, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 94-4, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

**"Section 94-4. Maximum hours.** (a) No employer shall, except as otherwise provided in this section, employ any employee for a workweek longer than forty hours unless such employee receives overtime compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

"For the purposes of this section,

(1) 'salary' means a predetermined wage, exclusive of the reasonable cost of board, lodging or other facilities, at which an employee is employed each pay period;

(2) if an employee performs two or more different kinds of work for the same employer, the total earnings for all such work for the pay period shall be considered to have been earned for performing one kind of work.

"(b) The regular rate of an employee who is employed on a salary shall be computed as follows:

(1) If he is employed on a weekly salary, the weekly salary and the reasonable cost of board, lodging or other facilities, if furnished to such employee, shall be divided by forty.

(2) If he is employed on a bi-weekly salary, the bi-weekly salary and the reasonable cost of board, lodging or other facilities, if furnished to such employee, shall be divided by two and the quotient divided by forty.

(3) If he is employed on a semi-monthly salary, the semi-monthly salary and the reasonable cost of board, lodging or other facilities, if furnished to such employee, shall be multiplied by twenty-four, the product divided by fifty-two and the quotient divided by forty.

(4) If he is employed on a monthly salary, the monthly salary and the reasonable cost of board, lodging or other facilities, if furnished to such employee, shall be multiplied by twelve, the product divided by fifty-two and the quotient divided by forty.

"(c) The regular rate of an employee who is employed on a salary and in addition receives other wages such as, but not limited to, commissions, bonus, piecework pay and hourly or daily pay shall be computed in the manner provided in this subsection. As used hereinabove, the term 'other wages' shall not include the reasonable cost of board, lodging or other facilities.

(1) If the employee's salary and the reasonable cost of board, lodging or other facilities, if furnished to such employee, equal or exceed fifty per cent of the employee's total earnings for the pay period, such total earnings shall be reduced to a regular rate in the

manner provided in paragraphs (1), (2), (3) or (4) of subsection (b), whichever is applicable.

(2) If the employee's salary and the reasonable cost of board, lodging or other facilities, if furnished to such employee, are less than fifty per cent of the employee's total earnings for the pay period, such total earnings shall be reduced to a regular rate in the manner provided in paragraphs (1), (2), (3) or (4) of subsection (b), whichever is applicable, except that the actual number of hours worked in the workweek shall be substituted for the final divisor of forty. Such an employee shall receive overtime compensation for such employment in excess of forty hours in a workweek at a rate not less than one-half times his regular rate.

"(d) The regular rate of an employee whose compensation is based on other than salary shall be computed in the manner provided in paragraph (2) of subsection (c). The reasonable cost of board, lodging or other facilities, if furnished to such employee, shall be included in computing his regular rate. Such an employee shall receive overtime compensation for such employment in excess of forty hours in a workweek at a rate not less than one-half times his regular rate.

"(e) An employer,

(1) who is engaged in agriculture and in the first processing of milk, buttermilk, whey, skim milk, or cream into dairy products, or in the processing of sugar cane molasses or sugar cane into sugar (but not refined sugar) or into syrup, or in the first processing of or in canning or packing any agricultural or horticultural commodity, or in handling, slaughtering or dressing poultry or livestock; or

(2) who is engaged in agriculture and whose agricultural products are processed by an employer who is engaged in a seasonal pursuit or in processing, canning or packing operations referred to in paragraph (1); or

(3) who is at any place of employment engaged primarily in the first processing of, or in canning or packing seasonal fresh fruits; shall not be required to pay overtime compensation for hours in excess of forty in a workweek to any of his employees during any of twenty different workweeks, as selected by him, in any yearly period commencing July 1, for employment in any place where the employer is so engaged. Such employer, however, shall pay overtime compensation for such employment in excess of forty-eight hours in any such exempt workweek at the rate and in the manner provided in subsections (a), (b), (c) and (d), whichever is applicable, except that the word 'forty-eight' shall be substituted for the word 'forty' wherever it appears in subsections (b), (c) and (d).

"(f) No employer shall employ any employee in split shifts unless all of said shifts within a period of twenty-four hours shall fall within a period of fourteen consecutive hours, except in case of extraordinary emergency."

**SECTION 2.** This Act shall take effect on August 1, 1965.  
(Approved May 14, 1965.) **H.B. 882.**