

2015 -- H 6278

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- MINIMUM WAGES

Introduced By: Representative John G. Edwards

Date Introduced: June 04, 2015

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-12-4.3 of the General Laws in Chapter 28-12 entitled "Minimum
2 Wages" is hereby amended to read as follows:

3 **28-12-4.3. Exemptions.** -- (a) The provisions of §§ 28-12-4.1 and 28-12-4.2 do not apply
4 to the following employees:

5 (1) Any employee of a summer camp when it is open no more than six (6) months of the
6 year.

7 (2) Police officers, firefighters, and rescue service personnel employed by the cities and
8 towns for a workweek no longer than forty-two (42) hours for firefighters and rescue service
9 personnel and forty (40) hours for police officers unless otherwise agreed upon by the parties. For
10 the purposes of this section, hours worked shall include any absences provided for under a
11 collective bargaining agreement or by federal and/or state law unless otherwise agreed upon by
12 the parties.

13 (3) Employees of the state or political subdivision of the state who may elect through a
14 collective bargaining agreement, memorandum of understanding, or any other agreement between
15 the employer and representatives of the employees, or if the employees are not represented by an
16 exclusive bargaining agent, through an agreement or understanding arrived at between the
17 employer and the employee prior to the performance of work, to receive compensatory time off
18 for hours worked in excess of forty (40) in a week. The compensatory hours shall at least equal
19 one and one half (1 1/2) times the hours worked over forty (40) in a week. If compensation is paid

1 to an employee for accrued compensatory time, the compensation shall be paid at the regular rate
2 earned by the employee at the time of payment. At the time of termination, unused accrued
3 compensatory time shall be paid at a rate not less than:

4 (i) The average regular rate received by the employee during the last three (3) years of
5 the employee's employment, or

6 (ii) The final regular rate received by the employee, whichever is higher.

7 (4) Any employee employed in a bona fide executive, administrative, or professional
8 capacity, as defined by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.,
9 compensated for services on a salary basis of not less than two hundred dollars (\$200) per week.

10 (5) Any employee as defined in subparagraph (a)(4) of this section unless the wages of
11 the employee, if computed on an hourly basis, would violate the applicable minimum wage law.

12 (6) Any salaried employee of a nonprofit national voluntary health agency who elects to
13 receive compensatory time off for hours worked in excess of forty (40) hours per week.

14 (7) Any employee, including drivers, driver's helpers, mechanics, and loaders of any
15 motor carrier, including private carriers, with respect to whom the U.S. secretary of transportation
16 has power to establish qualifications and maximum hours of service pursuant to the provisions of
17 49 U.S.C. § 3102.

18 (8) Any employee who is a salesperson, parts person, or mechanic primarily engaged in
19 the sale and/or servicing of automobiles, trucks or farm implements, and is employed by a non-
20 manufacturing employer primarily engaged in the business of selling vehicles or farm implements
21 to ultimate purchasers, to the extent that the employers are exempt under the federal Wage-Hour
22 and Equal Pay Act, 29 U.S.C. § 201 et seq. and 29 U.S.C. § 213(b)(10); provided, that the
23 employee's weekly, bi-weekly, or monthly actual earnings exceed an amount equal to the
24 employee's basic contractual hourly rate of pay times the number of hours actually worked plus
25 the employee's basic contractual hourly rate of pay times one-half (1/2) the number of hours
26 actually worked in excess of forty (40) hours per week.

27 (9) Any employee employed in agriculture; however, this exemption applies to all
28 agricultural enterprises that produce greenhouse crops, fruit and vegetable crops, herbaceous
29 crops, sod crops, viticulture, viniculture, floriculture, feed for livestock, forestry, dairy farming,
30 aquaculture, the raising of livestock, furbearing animals, poultry and eggs, bees and honey,
31 mushrooms, and nursery stock. This exemption also applies to nursery workers.

32 (10) Any employee of an air carrier subject to the provisions of title 45 U.S.C. § 181 et
33 seq., of the Railway Labor Act when the hours worked by such employee in excess of forty (40)
34 in a work week are not required by the air carrier, but are arranged through a voluntary agreement

1 among employees to trade scheduled work hours.

2 (b) Nothing in this section exempts any employee who under applicable federal law is
3 entitled to overtime pay or benefits related to overtime pay.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS -- MINIMUM WAGES

1 This act would establish a forty-two (42) hour workweek for firefighters and rescue
2 service personnel and a forty (40) hour workweek for municipal police officers unless otherwise
3 agreed upon by the parties with regard to the payment of overtime.

4 This act would take effect upon passage.

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