



Substitute House Bill No. 5453

Public Act No. 14-159

AN ACT CONCERNING EMPLOYERS AND HOME CARE WORKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 31-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):

As used in sections 31-76b to 31-76j, inclusive:

(1) The "regular rate" at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include (A) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production or efficiency; (B) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of the employer's interests and properly reimbursable by the employer; and other similar payments to an employee that are not made as compensation for the employee's hours of employment; (C) sums paid in recognition of

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services performed during a given period if either, (i) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement or promise causing the employee to expect such payments regularly; (ii) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the approval of the Labor Commissioner who shall give due regard, among other relevant factors, to the extent to which the amounts paid to the employee are determined with regard to hours of work, production or efficiency; (D) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident or health insurance or similar benefits for employees; (E) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or in excess of the maximum workweek applicable to such employee under section 31-76c, or in excess of the employee's normal working hours or regular working hours, as the case may be; (F) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in nonovertime hours on other days; or (G) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal or regular workday, not exceeding the maximum workweek applicable to such employee under section 31-76c, where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek. For the purpose of calculating the overtime rate of

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compensation required to be paid to an employee who is (i) employed as a delivery driver or sales merchandiser, (ii) paid on a base salary and commission basis, and (iii) not exempt from the overtime requirements of this chapter, the employee's regular rate shall be one-fortieth of the employee's weekly remuneration;

(2) (A) "Hours worked" include all time during which an employee is required by the employer to be on the employer's premises or to be on duty, or to be at the prescribed work place, and all time during which an employee is employed or permitted to work, whether or not required to do so, provided time allowed for meals shall be excluded unless the employee is required or permitted to work. Such time includes, but shall not be limited to, the time when an employee is required to wait on the premises while no work is provided by the employer. (B) All time during which an employee is required to be on call for emergency service at a location designated by the employer shall be considered to be working time and shall be paid for as such, whether or not the employee is actually called upon to work. (C) When an employee is subject to call for emergency service but is not required to be at a location designated by the employer but is simply required to keep the employer informed as to the location at which he may be contacted, or when an employee is not specifically required by his employer to be subject to call but is contacted by his employer or on the employer's authorization directly or indirectly and assigned to duty, working time shall begin when the employee is notified of his assignment and shall end when the employee has completed his assignment. (D) Notwithstanding the provisions of this subdivision, when an individual employed by a third-party provider to provide "companionship services", as defined in the regulations of the federal Fair Labor Standards Act, is required to be present at a worksite for a period of not less than twenty-four consecutive hours, such individual and his or her employer may agree in writing to exclude a regularly scheduled sleeping period of not more than eight hours from hours

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worked, provided (i) adequate on-site sleeping facilities are furnished to such individual, and (ii) such individual receives at least five hours of sleep time. If the scheduled sleeping period is more than eight hours, only eight hours will be excluded. If the scheduled sleeping period is interrupted by an assignment to work, the interruption shall be counted as hours worked. If such individual does not receive at least five hours of sleep time during the scheduled sleeping period, the entire sleeping period shall be considered hours worked. The provisions of this subparagraph shall be effective on and after the effective date of the United States Department of Labor's Final Rule concerning the Application of the federal Fair Labor Standards Act to Domestic Service published in the Federal Register of October 1, 2013;

(3) "Employee" means employee, as defined in section 31-58.

Approved June 11, 2014