



# House of Representatives

General Assembly

**File No. 85**

February Session, 2014

Substitute House Bill No. 5256

*House of Representatives, March 25, 2014*

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE COMPENSATION OF WORKERS ON FAMILY HOLIDAYS.**

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

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) For purposes of this  
2 section:

3 (1) "Employee" shall have the same meaning as "employee", as  
4 defined in section 31-58 of the general statutes;

5 (2) "Employer" means any owner or any person, partnership,  
6 corporation, limited liability company or association of persons acting  
7 directly as, or on behalf of, or in the interest of an employer in relation  
8 to not less than five employees, including the state and any political  
9 subdivision thereof;

10 (3) "Family holiday" means Thanksgiving Day or Christmas Day;  
11 and

12 (4) "Retail business" means any for-profit or not-for-profit business  
13 having a fixed, permanent location the principal activity of which is  
14 exhibiting or offering for sale goods, wares or merchandise on a  
15 continuous basis.

16 (b) Each employer operating a retail business shall compensate each  
17 employee who works for such retail business on a family holiday by  
18 (1) paying the employee at a rate not less than two and one-half times  
19 the regular rate, as described in section 31-76b of the general statutes,  
20 at which he or she is employed for the duration of time the employee  
21 works for such retail business on the family holiday, or (2) (A) paying  
22 the employee at a rate not less than one and one-half times the regular  
23 rate, as described in section 31-76b of the general statutes, at which he  
24 or she is employed for the duration of time the employee works for  
25 such retail business on the family holiday, and (B) granting such  
26 employee future paid leave at a rate not less than the regular rate, as  
27 described in section 31-76b of the general statutes, at which he or she is  
28 employed for the duration of time the employee worked for such retail  
29 business on the family holiday.

30 (c) Any employee aggrieved by a violation of the provisions of this  
31 section may file a complaint with the Labor Commissioner. Upon  
32 receipt of any such complaint, said commissioner may hold a hearing.  
33 After the hearing, any employer who is found by the Labor  
34 Commissioner, by a preponderance of the evidence, to have violated  
35 the provisions of this section shall be liable to the Labor Department  
36 for a civil penalty of up to one hundred dollars for each violation. The  
37 Labor Commissioner may award the employee all appropriate relief,  
38 including the payment of back wages, to which the employee  
39 otherwise would have been eligible. Any party aggrieved by the  
40 decision of the commissioner may appeal the decision to the Superior  
41 Court in accordance with the provisions of chapter 54 of the general  
42 statutes.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2014</i>	New section
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**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 15 \$</b>	<b>FY 16 \$</b>
Labor Dept.	GF - Potential Revenue Gain	Less than 25,000	Less than 25,000
Labor Dept.	GF - Potential Cost	Less than 5,000	Less than 5,000

**Municipal Impact:** None

### **Explanation**

The bill requires certain employers to pay employees extra compensation for working on Thanksgiving or Christmas, and establishes a civil penalty of up to \$100 for each violation. This results in a potential cost of less than \$5,000 annually beginning in FY 15 to the Department of Labor (DOL) related to the administrative hearing process. This also results in a potential General Fund revenue gain of less than \$25,000 annually beginning in FY 15 to DOL, which may levy the civil penalties established under the bill.

The actual cost and revenue gain associated with the bill are dependent on the number of complaints received and civil penalties levied by the Labor Commissioner. The potential revenue gain identified above assumes fewer than 250 violations annually.

There is no impact to the Judicial Department from allowing any aggrieved party to appeal to the Superior Court. The number of appeals is not anticipated to be great enough to need additional resources. The court system disposes of over 400,000 cases annually.

### **Background**

According to data from the Department of Labor, as of June 2013 there were 12,766 retail worksites employing approximately 184,600 workers in Connecticut. It is uncertain what number of retail workers would be covered under the bill.

***The Out Years***

The annualized ongoing cost impact identified above would continue into the future subject to inflation. The annualized ongoing revenue impact identified above would remain constant into the future as penalty amounts are set by statute and are not subject to inflation

*.Sources: Department of Labor Quarterly Census of Employment and Wages*

**OLR Bill Analysis**

**sHB 5256**

***AN ACT CONCERNING THE COMPENSATION OF WORKERS ON FAMILY HOLIDAYS.***

**SUMMARY:**

This bill requires employers with at least five hourly wage-earning employees to give hourly employees extra compensation for working at the employers' retail businesses on Thanksgiving or Christmas. For their work on these days, the employees must receive either (1) two-and-a-half times their regular wage rate or (2) one-and-a-half times their regular rate plus future paid time off (at their regular rate) equal to the time they worked on the holiday.

Under the bill, a "retail business" is one with a fixed, permanent location whose principal activity is continually exhibiting or selling goods, wares, or merchandise. Employees eligible for the additional compensation are those covered by the state's minimum wage requirement (generally, hourly wage workers, but not salaried managerial and professional employees). An employee's "regular rate" is determined as it is under the law's requirement for overtime pay and does not include certain types of compensation such as gifts, bonuses, expenses, and retirement or health insurance benefits.

Employees alleging a violation can complain to the labor commissioner, who can hold a hearing on the complaint. If the labor commissioner finds an employer in violation by a preponderance of the evidence, the employer must pay a fine of up to \$100 for each violation. The labor commissioner can also award an employee all appropriate relief, including back pay. Parties aggrieved by the commissioner's decision can appeal to the Superior Court.

EFFECTIVE DATE: October 1, 2014

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 5 (03/11/2014)