



Senate

General Assembly

File No. 293

February Session, 2024

Substitute Senate Bill No. 221

Senate, April 8, 2024

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE MINIMUM FAIR WAGE AND SERVICE CHARGES.

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

1 Section 1. Section 31-60 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2024*):

3 (a) [Except as provided in subdivision (5) of subsection (i) of section
4 31-58, any] Any employer who pays or agrees to pay to an employee
5 less than the minimum fair wage or overtime wage shall be deemed in
6 violation of the provisions of this part.

7 (b) The Labor Commissioner shall adopt such regulations, in
8 accordance with the provisions of chapter 54, as may be appropriate to
9 carry out the purposes of this part. Such regulations may include, but
10 are not limited to, regulations defining and governing an executive,
11 administrative or professional employee and outside salesperson;
12 [learners and apprentices, their number, proportion and length of

13 service;] and piece rates in relation to time rates; and shall recognize, as
14 part of the minimum fair wage, gratuities in an amount [(1)] equal to (1)
15 [twenty-nine and three-tenths per cent, and effective January 1, 2009,
16 equal to thirty-one per cent of the minimum fair wage per hour, and
17 effective January 1, 2014, equal to thirty-four and six-tenths per cent of
18 the minimum fair wage per hour, and effective January 1, 2015, and
19 ending on June 30, 2019, equal to thirty-six and eight-tenths per cent of
20 the minimum fair wage per hour] effective July 1, 2024, thirty-four and
21 two-tenths per cent of the minimum fair wage per hour, and effective
22 July 1, 2025, twenty-two per cent of the minimum fair wage per hour,
23 and effective July 1, 2026, and ending July 1, 2027, ten per cent of the
24 minimum fair wage per hour for persons, other than bartenders, who
25 are employed in the hotel and restaurant industry, including a hotel
26 restaurant, who customarily and regularly receive gratuities, and (2)
27 [equal to eight and two-tenths per cent, and effective January 1, 2009,
28 equal to eleven per cent of the minimum fair wage per hour, and
29 effective January 1, 2014, equal to fifteen and six-tenths per cent of the
30 minimum fair wage per hour, and effective January 1, 2015, and ending
31 on June 30, 2019, equal to eighteen and one-half per cent of the minimum
32 fair wage per hour] effective July 1, 2024, twenty-one and eight-tenths
33 per cent of the minimum fair wage per hour, and effective July 1, 2025,
34 eleven per cent of the minimum fair wage per hour, and effective July 1,
35 2026, and ending July 1, 2027, eight and two-tenths per cent of the
36 minimum fair wage per hour for persons employed as bartenders who
37 customarily and regularly receive gratuities. [, and (3) not to exceed
38 thirty-five cents per hour in any other industry, and shall also recognize]
39 On and after July 1, 2027, no gratuities shall be recognized by the Labor
40 Commissioner as part of the minimum fair wage. The Labor
41 Commissioner shall also recognize as part of the minimum fair wage
42 deductions and allowances for the value of board, in the amount of
43 eighty-five cents for a full meal and forty-five cents for a light meal,
44 lodging, apparel or other items or services supplied by the employer;
45 and other special conditions or circumstances which may be usual in a
46 particular employer-employee relationship. The commissioner may
47 provide, in such regulations, modifications of the minimum fair wage

48 herein established [for learners and apprentices; persons under the age
49 of eighteen years; and] for such special cases or classes of cases as the
50 commissioner finds appropriate to prevent curtailment of employment
51 opportunities, avoid undue hardship and safeguard the minimum fair
52 wage herein established. Regulations in effect on July 1, 1973, providing
53 for a board deduction and allowance in an amount differing from that
54 provided in this section shall be construed to be amended consistent
55 with this section.

56 (c) Regulations adopted by the commissioner pursuant to subsection
57 (b) of this section which define executive, administrative and
58 professional employees shall be updated not later than October 1, 2000,
59 and every four years thereafter, to specify that such persons shall be
60 compensated on a salary basis at a rate determined by the Labor
61 Commissioner.

62 (d) (1) Effective July 1, 2019, and ending July 1, 2024, the Labor
63 Commissioner shall recognize, as part of the minimum fair wage,
64 gratuities in an amount equal to the difference between the minimum
65 fair wage and the employer's share per hour for persons, other than
66 bartenders, who are employed in the hotel and restaurant industry,
67 including a hotel restaurant, who customarily and regularly receive
68 gratuities. [The Labor Commissioner shall also recognize, as part of the
69 subminimum wage established in subdivision (5) of subsection (i) of
70 section 31-58, gratuities in an amount equal to the difference between
71 such subminimum wage and the employer's share per hour for persons,
72 other than bartenders, who are employed in the hotel and restaurant
73 industry, including a hotel restaurant, who customarily and regularly
74 receive gratuities.]

75 (2) Effective July 1, 2019, and ending July 1, 2024, the Labor
76 Commissioner shall recognize, as part of the minimum fair wage,
77 gratuities in an amount equal to the difference between the minimum
78 fair wage and the employer's share per hour for persons employed as
79 bartenders who customarily and regularly receive gratuities.

80 (3) As used in this subsection "employer's share" means (A) six dollars

81 and thirty-eight cents per hour for persons, other than bartenders, who
82 are employed in the hotel and restaurant industry, including a hotel
83 restaurant, who customarily and regularly receive gratuities, and (B)
84 eight dollars and twenty-three cents per hour for persons employed as
85 bartenders who customarily and regularly receive gratuities.

86 (4) Notwithstanding any other law or regulation, any claim brought
87 under this subsection, section 31-68 as it relates to gratuities as part of
88 the minimum wage or section 31-62-E3 of the regulations of Connecticut
89 state agencies filed after September 24, 2022, shall be adjudicated, solely,
90 under section 31-60-2 of the regulations of Connecticut state agencies
91 effective on September 24, 2020, and any amendments thereto.

92 [(e) On and after October 1, 2020, no employer may take any action
93 to displace an employee, including, but not limited to, a partial
94 displacement of an employee, such as reducing the employee's hours,
95 wages or employment benefits, for purposes of hiring persons under the
96 age of eighteen years at a rate below the minimum fair wage. If the Labor
97 Commissioner determines that an employer has violated this
98 subsection, the commissioner shall suspend the employer's right to pay
99 the reduced rate for employees for a period of time specified in
100 regulations adopted pursuant to subsection (b) of this section.]

101 Sec. 2. Subsection (i) of section 31-58 of the general statutes is repealed
102 and the following is substituted in lieu thereof (*Effective July 1, 2024*):

103 (i) "Minimum fair wage" in any industry or occupation in this state
104 means:

105 (1) A wage of not less than six dollars and seventy cents per hour, and
106 effective January 1, 2003, not less than six dollars and ninety cents per
107 hour, and effective January 1, 2004, not less than seven dollars and ten
108 cents per hour, and effective January 1, 2006, not less than seven dollars
109 and forty cents per hour, and effective January 1, 2007, not less than
110 seven dollars and sixty-five cents per hour, and effective January 1, 2009,
111 not less than eight dollars per hour, and effective January 1, 2010, not
112 less than eight dollars and twenty-five cents per hour, and effective

113 January 1, 2014, not less than eight dollars and seventy cents per hour,
114 and effective January 1, 2015, not less than nine dollars and fifteen cents
115 per hour, and effective January 1, 2016, not less than nine dollars and
116 sixty cents per hour, and effective January 1, 2017, not less than ten
117 dollars and ten cents per hour, and effective October 1, 2019, not less
118 than eleven dollars per hour, and effective September 1, 2020, not less
119 than twelve dollars per hour, and effective August 1, 2021, not less than
120 thirteen dollars per hour, and effective July 1, 2022, not less than
121 fourteen dollars per hour, and effective June 1, 2023, not less than fifteen
122 dollars per hour. On October 15, 2023, and on each October fifteenth
123 thereafter, the Labor Commissioner shall announce the adjustment in
124 the minimum fair wage which shall become the new minimum fair
125 wage and shall be effective on January first immediately following. On
126 January 1, 2024, and not later than each January first thereafter, the
127 minimum fair wage shall be adjusted by the percentage change in the
128 employment cost index, or its successor index, for wages and salaries
129 for all civilian workers, as calculated by the United States Department
130 of Labor, over the twelve-month period ending on June thirtieth of the
131 preceding year, rounded to the nearest whole cent.

132 (2) In no event shall the minimum fair wage be less than the amount
133 established under subdivision (1) of this subsection, or one-half of one
134 per cent rounded to the nearest whole cent more than the highest federal
135 minimum wage, whichever is greater, except as may otherwise be
136 established in accordance with the provisions of this part.

137 (3) All wage orders in effect on October 1, 1971, wherein a lower
138 minimum fair wage has been established, are amended to provide for
139 the payment of the minimum fair wage herein established except as
140 hereinafter provided.

141 (4) Whenever the highest federal minimum wage is increased, the
142 minimum fair wage established under this part shall be increased to the
143 amount of said federal minimum wage plus one-half of one per cent
144 more than said federal rate, rounded to the nearest whole cent, effective
145 on the same date as the increase in the highest federal minimum wage,

146 and shall apply to all wage orders and administrative regulations then
147 in force.

148 [(5) The rates for all persons under the age of eighteen years, except
149 emancipated minors, shall be not less than eighty-five per cent of the
150 minimum fair wage for the first ninety days of such employment, or ten
151 dollars and ten cents per hour, whichever is greater, and shall be equal
152 to the minimum fair wage thereafter, except in institutional training
153 programs specifically exempted by the commissioner.]

154 [(6)] (5) After two consecutive quarters of negative growth in the
155 state's real gross domestic product, as reported by the Bureau of
156 Economic Analysis of the United States Department of Commerce, the
157 Labor Commissioner shall report his or her recommendations, in
158 writing, to the Governor regarding whether any scheduled increases in
159 the minimum fair wage pursuant to this section should be suspended.
160 Upon receiving the report, the Governor may submit his or her
161 recommendations regarding the suspension of such minimum fair wage
162 increases to the General Assembly.

163 Sec. 3. (NEW) (Effective July 1, 2024) It shall be an unfair or deceptive
164 trade practice, in violation of chapter 735a of the general statutes, for
165 any restaurant to charge a service fee to a customer without disclosing
166 the existence, amount and purpose of such service fee to the customer
167 prior to such customer ordering from the restaurant.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2024	31-60
Sec. 2	July 1, 2024	31-58(i)
Sec. 3	July 1, 2024	New section

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Consumer Protection, Dept.	GF - Potential Cost	71,000	71,000
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	29,000	29,000

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 25 \$	FY 26 \$
Various Municipalities	STATE MANDATE ² - Cost	Potential	Potential

Explanation

The bill makes various changes to labor laws resulting in the potential costs described below.

Section 1, which phases out the recognition of gratuities as part of the fair minimum wage, does not result in any fiscal impact to the Department of Labor (DOL) as the bill does not add additional tasks to DOL's Wage and Workplace Standards Division.

Section 2 results in a potential cost to municipalities beginning in FY

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.25% of payroll in FY 25.

² State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

25 to the extent that they employ unemancipated minors, learners, or apprentices. The bill removes a provision that permitted employers to pay certain minors, learners, or apprentices below the minimum fair wage. Removing this provision results in a cost to any municipality that employs these workers.

Section 3 makes it an unfair trade practice for a restaurant to charge a service fee to a customer without disclosing the fee's amount and purpose before the customer orders, resulting in a potential cost to the Department of Consumer Protection (DCP) and the State Comptroller beginning in FY 25. To the extent this generates a significant increase in violations that DCP will have to investigate, the agency may have to hire one special investigator for an annual personal services cost of \$71,000, along with associated fringe benefit costs of \$29,000 per year.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and employee wage increases.

OLR Bill Analysis

sSB 221

AN ACT CONCERNING THE MINIMUM FAIR WAGE AND SERVICE CHARGES.

SUMMARY

This bill phases out the state wage law’s “tip credit” provision between July 1, 2024, and July 1, 2027. The provision generally allows employers to pay certain employees who customarily and regularly receive tips less than the minimum wage, using their tips to meet the remainder of the minimum wage requirement. If the tips do not make up the difference, then the employer must cover it.

Under current law, the tip credit allows employers to pay hotel and restaurant staff as low as \$6.38 per hour (40.7% of the current \$15.69 minimum wage) and bartenders \$8.23 per hour (52.5% of the current minimum). The table below shows the bill’s phase-out schedule and percentage of the minimum wage employers must pay these employees under the bill’s revised tip credit provision. By law, the minimum wage is adjusted for inflation at the start of each new calendar year.

Table: Tip Credit Phase Out Under the Bill

<i>Effective Date</i>	<i>Percentage of Minimum Wage Employer Must Pay</i>	
	<i>Hotel and Restaurant Staff</i>	<i>Bartenders</i>
Current law	40.7%	52.5%
July 1, 2024	65.8%	78.2%
July 1, 2025	78.0%	88.0%
July 1, 2026	90.0%	91.8%
July 1, 2027	100%	100%

The bill also makes it an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA) for a restaurant to

charge a service fee to a customer without disclosing the fee's amount and purpose before the customer orders (see "BACKGROUND").

Additionally, the bill removes provisions that currently allow (1) employers to pay unemancipated minors (under age 18) 85% of the minimum wage for their first 90 days of employment and (2) the labor commissioner to adopt regulations on modifying the minimum wage for learners and apprentices. In doing so, the bill requires that the minors, learners, and apprentices be paid at least the full minimum wage. Current regulations allow the labor commissioner to give written permission for learners and apprentices to be paid less than the minimum wage under certain conditions (see "BACKGROUND").

Lastly, the bill makes conforming changes that, among other things, remove a prohibition on employers displacing employees to hire minors at a sub-minimum wage.

EFFECTIVE DATE: July 1, 2024

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order (CGS § 42-110a et seq.).

Learners

Under current regulations, "learners" are students in an established vocational training program for an occupation that is not apprenticeable but has a long training period. They may be paid a sub-minimum wage

for up to 200 hours in an approved training program with written permission from the labor commissioner (Conn. Agencies Regs., § 31-60-7).

Apprentices

Under current regulations, an “apprentice” is someone at least age 16 who is employed to learn a skilled trade in a bona fide apprentice program approved by the Connecticut State Apprenticeship Council. An employer must have permission from the labor commissioner for each apprentice paid less than the minimum wage (Conn. Agencies Regs., § 31-60-8).

Related Bill

sHB 5236, § 25, favorably reported by the General Law Committee, among other things, allows the Department of Consumer Protection to impose a civil penalty of up to \$5,000 for CUTPA violations, after an administrative hearing.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/19/2024)