

COMMITTEE ON APPROPRIATIONS
SENATE AMENDMENTS TO H.C.R. 2014
(Reference to House engrossed resolution)

1 Strike everything after the resolving clause and insert:

2 "1. Under the power of the referendum, as vested in the Legislature,
3 the following measure, relating to the minimum wage, is enacted to become
4 valid as a law if approved by the voters and on proclamation of the Governor:

5 AN ACT

6 AMENDING SECTIONS 23-363 AND 23-364, ARIZONA REVISED STATUTES;
7 RELATING TO THE MINIMUM WAGE.

8 Be it enacted by the Legislature of the State of Arizona:

23-363. Minimum wage

12 A. Employers shall pay employees ~~no less than~~ AT LEAST the
13 minimum wage, which ~~shall be six dollars and seventy five cents~~
14 ~~(\$6.75)~~ IS EIGHT DOLLARS FORTY-ONE CENTS an hour beginning ~~on~~
15 ~~January 1, 2007~~ FROM AND AFTER DECEMBER 31, 2016 THROUGH DECEMBER
16 31, 2017.

17 B. The minimum wage shall be increased ~~on January 1, 2008~~
18 ~~and on January 1 of~~ AS FOLLOWS:

19 1. BEGINNING FROM AND AFTER DECEMBER 31, 2017 THROUGH
20 DECEMBER 31, 2018, TO EIGHT DOLLARS SEVENTY-SEVEN CENTS AN HOUR.

21 2. BEGINNING FROM AND AFTER DECEMBER 31, 2018 THROUGH
22 DECEMBER 31, 2019, TO NINE DOLLARS THIRTEEN CENTS AN HOUR.

23 3. BEGINNING FROM AND AFTER DECEMBER 31, 2019 THROUGH
24 DECEMBER 31, 2020, TO NINE DOLLARS FIFTY CENTS AN HOUR.

1 4. BEGINNING FROM AND AFTER DECEMBER 31, 2020 AND FROM AND
2 AFTER DECEMBER 31 OF EACH successive ~~years~~ YEAR by the increase
3 in the cost of living. The increase in the cost of living shall
4 be measured by the percentage increase as of THE August of the
5 ~~immediately preceding~~ year THAT IS TWO YEARS PRIOR over the level
6 as of THE August of the ~~previous~~ year THAT IS THREE YEARS PRIOR
7 of the consumer price index ~~(FOR~~ all urban consumers, ~~U.S.~~
8 UNITED STATES city average for all items) or its successor index
9 as published by the ~~U.S.~~ UNITED STATES department of labor,
10 BUREAU OF LABOR STATISTICS or its successor agency, with the
11 amount of the minimum wage increase rounded to the nearest
12 multiple of five cents.

13 C. For any employee who customarily and regularly receives
14 tips or gratuities from patrons or others, the employer may pay a
15 wage up to ~~\$3.00 per hour~~ FORTY PERCENT less than the minimum
16 wage if the employer can establish by ~~its~~ THE EMPLOYER'S records
17 of charged tips or by the employee's declaration for federal
18 insurance contributions act ~~(FICA)~~ purposes that for each week,
19 when adding tips received to wages paid, the employee received
20 ~~not less than~~ AT LEAST the minimum wage for all hours worked.
21 Compliance with this provision ~~will be~~ IS determined by averaging
22 tips received by the employee over the course of the employer's
23 payroll period or any other period selected by the employer that
24 complies with regulations adopted by the commission.

25 Sec. 2. Section 23-364, Arizona Revised Statutes, is
26 amended to read:

27 **23-364. Enforcement**

28 A. The commission is authorized to enforce and implement
29 this article and may ~~promulgate regulations~~ ADOPT RULES
30 consistent with this article to do so.

31 B. ~~No~~ AN employer or other person shall NOT discharge or
32 take any other adverse action against any person in retaliation

for asserting any claim or right under this article, for assisting any other person in doing so,— or for informing any person about ~~their~~ THAT PERSON'S rights. Taking adverse action against a person within ninety days ~~of~~ AFTER a person's engaging in the foregoing activities shall raise a presumption that ~~such~~ THE DISCHARGE OR OTHER ADVERSE action was retaliation,~~, which~~. THE PRESUMPTION may be rebutted by clear and convincing evidence that ~~such~~ THE DISCHARGE OR OTHER ADVERSE action was taken for other permissible reasons.

C. Any person or organization may file an administrative complaint with the commission charging that an employer has violated this article as to any employee or other person. ~~When~~ IF the commission receives a complaint, the commission may review records regarding all employees at the employer's worksite in order to protect the identity of any employee identified in the complaint and to determine whether a pattern of violations has occurred. The name of any employee identified in a complaint to the commission shall be kept confidential FOR as long as possible. ~~Where~~ IF the commission determines that an employee's name must be disclosed in order to investigate a complaint further, ~~it~~ THE COMMISSION may ~~so do~~ DISCLOSE THE EMPLOYEE'S NAME only with the employee's consent.

D. Employers shall post notices in the workplace, in ~~such~~ A format specified by the commission, notifying employees of their rights under this article. Employers shall provide their business name, address,— and telephone number in writing to employees ~~upon~~ ON hire. Employers shall maintain payroll records showing the hours worked for each day worked, and the wages paid to all employees for a period of four years. Failure to do so shall raise a rebuttable presumption that the employer did not pay the required minimum wage rate. The commission may by ~~regulation~~ RULE reduce or waive the recordkeeping and posting

1 requirements ~~herein~~ PROVIDED IN THIS SUBSECTION for any
2 categories of small employers ~~whom it~~ THAT THE COMMISSION finds
3 would be unreasonably burdened by such requirements. Employers
4 shall permit the commission or a law enforcement officer to
5 inspect and copy payroll or other business records, ~~shall permit~~
6 ~~them to~~ AND interview employees away from the worksite, ~~and~~.
7 EMPLOYERS shall not hinder any investigation. ~~Such~~ THE
8 information provided shall ~~keep BE KEPT~~ confidential except as is
9 required to prosecute violations of this article. Employers
10 shall permit an employee or ~~his or her~~ THE EMPLOYEE'S designated
11 representative to inspect and copy payroll records pertaining to
12 that employee.

13 E. A civil action to enforce this article may be
14 maintained in a court of competent jurisdiction by a law
15 enforcement officer or by any private party injured by a
16 violation of this article.

17 F. Any employer who violates recordkeeping, posting, ~~or~~ or
18 other requirements that the commission may establish under this
19 article ~~shall be~~ IS subject to a civil penalty of at least \$250
20 TWO HUNDRED FIFTY dollars for a first violation, ~~and~~ and at least
21 \$1000 ONE THOUSAND dollars for each subsequent or ~~willful~~ WILFUL
22 violation and ~~may~~, if the commission or court determines
23 appropriate, MAY be subject to special monitoring and
24 inspections.

25 G. Any employer ~~who~~ THAT fails to pay the wages required
26 under this article shall be required to pay the employee the
27 balance of the wages owed, including interest thereon, and an
28 additional amount equal to twice the underpaid wages. Any
29 employer who retaliates against an employee or other person in
30 violation of this article shall be required to pay the employee
31 an amount set by the commission or a court sufficient to
32 compensate the employee and deter future violations, but ~~not less~~

1 than AT LEAST one hundred fifty dollars for each day that the
2 violation continued or until legal judgment is final. The
3 commission and the courts shall have the authority to order
4 payment of such THE unpaid wages, other amounts, and civil
5 penalties and to order any other appropriate legal or equitable
6 relief for violations of this article. Civil penalties shall be
7 retained by the agency that recovered them and used to finance
8 activities to enforce this article. A prevailing plaintiff shall
9 be entitled to reasonable attorney's ATTORNEY fees and costs of
10 suit.

11 H. A civil action to enforce this article may be commenced
12 no NOT later than two years after a violation last occurs, or
13 three years in the case of a willful WILFUL violation, and may
14 encompass all violations that occurred as A part of a continuing
15 course of employer conduct regardless of their date. The statute
16 of limitations shall be tolled during any investigation of an
17 employer by the commission or other law enforcement officer, but
18 such AN investigation shall not bar a person from bringing a
19 civil action under this article. No A verbal or written
20 agreement or employment contract may NOT waive any rights under
21 this article.

22 I. THE ESTABLISHMENT OF A UNIFORM MINIMUM WAGE IS A MATTER
23 OF STATEWIDE CONCERN. ONLY the legislature may by statute raise
24 the minimum wage established under this article, extend
25 coverage, or increase penalties. A county, city, or town may by
26 ordinance regulate minimum wages and benefits within its
27 geographic boundaries but may not provide for a minimum wage
28 lower than that prescribed in this article. State agencies,
29 counties, cities, towns and other political subdivisions of the
30 state may consider violations of this article in determining
31 whether employers may receive or renew public contracts,
32 financial assistance or licenses. This article shall be

1 liberally construed in favor of its purposes and shall not limit
2 the authority of the legislature ~~or any other body~~ to adopt any
3 law or policy that requires payment of higher or supplemental
4 wages or benefits, or that extends such protections to employers
5 or employees not covered by this article.

6 Sec. 3. Intent

7 Pursuant to section 41-1107, Arizona Revised Statutes, it
8 is the intent of the legislature to establish a uniform minimum
9 wage in this state. The establishment of a uniform minimum wage
10 is a matter of statewide concern. Cities, towns and counties
11 should not be able to independently regulate the minimum wage
12 because employers will be subject to a patchwork of varying
13 regulations. Employers must be able to rely on the
14 predictability of the minimum wage to best treat employees with
15 uniformity and certainty throughout this state.

16 2. The Secretary of State shall submit this proposition to the voters
17 at the next general election as provided by article IV, part 1, section 1,
18 Constitution of Arizona."

19 Amend title to conform

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03/18/2016
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