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HOUSE BILL 258

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO PAYMENT OF WAGES; INCREASING THE STATE MINIMUM WAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended by Laws 2005, Chapter 302, Section 1 and by Laws 2005, Chapter 306, Section 1) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer [~~except as provided in Section 50-4-21 NMSA 1978~~] shall pay the minimum wage rate of [~~five dollars fifteen cents (\$5.15)~~] seven dollars fifty cents (\$7.50) an hour, except that an employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished

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1 items from any wages due to the employee.

2 B. An employee [~~subject to Subsection A of this~~
3 ~~section~~] who customarily and regularly receives more than
4 [~~thirty dollars (\$30.00)~~] forty-five dollars (\$45.00) a month
5 in tips shall be paid a minimum hourly wage of [~~two dollars~~
6 ~~thirteen cents (\$2.13)~~] three dollars ten cents (\$3.10). The
7 employer may consider tips as part of wages, but the tips
8 combined with the employer's cash wage shall not equal less
9 than [~~five dollars sixty cents (\$5.60) per hour~~] the minimum
10 wage rate as provided in Subsection A of this section. All
11 tips received by such employees shall be retained by the
12 employee, except that nothing in this section shall prohibit
13 the pooling of tips among employees.

14 C. An employee [~~subject to the provisions of~~
15 ~~Subsection A of this section~~] shall not be required to work
16 more than forty hours in any week of seven days, unless the
17 employee is paid one and one-half times the employee's regular
18 hourly rate of pay for all hours worked in excess of forty
19 hours. For an employee who is paid a fixed salary for
20 fluctuating hours and who is employed by an employer a majority
21 of whose business in New Mexico consists of providing
22 investigative services to the federal government, the hourly
23 rate may be calculated in accordance with the provisions of the
24 federal Fair Labor Standards Act of 1938 and the regulations
25 pursuant to that act; provided that in no case shall the hourly

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1 rate be less than the federal minimum wage.

2 D. On January 1, 2008 and on January 1 of each
3 successive year, the minimum wage rate shall be increased by
4 the increase in the cost of living. The increase in the cost
5 of living shall be measured by the lesser of three percent or
6 the percentage increase as of August of the immediately
7 preceding year over the level as of August of the previous year
8 of the consumer price index for all urban consumers, United
9 States city average for all items, or its successor index as
10 published by the United States department of labor or its
11 successor agency, with the amount of the minimum wage increase
12 rounded to the nearest multiple of five cents (\$.05). The
13 labor and industrial division of the labor department shall
14 publish by November 1 of each year the adjusted minimum wage
15 rates that shall take effect the following January 1."

16 Section 2. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is January 1, 2007.

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