

1 SENATE BILL 35

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Jeff Steinborn

5
6
7
8
9
10 AN ACT

11 RELATING TO EMPLOYMENT; REMOVING THE EXCEPTION TO THE MINIMUM
12 WAGE REQUIREMENT FOR SECONDARY SCHOOL STUDENTS.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 50-4-22 NMSA 1978 (being Laws 1955,
16 Chapter 200, Section 3, as amended) is amended to read:

17 "50-4-22. MINIMUM WAGES.--

18 A. Except as provided in Subsection [~~B or D~~] C of
19 this section, an employer shall pay to an employee a minimum
20 wage rate of:

21 (1) prior to January 1, 2020, at least seven
22 dollars fifty cents (\$7.50) an hour;

23 (2) beginning January 1, 2020 and prior to
24 January 1, 2021, at least nine dollars (\$9.00) an hour;

25 (3) beginning January 1, 2021 and prior to

.218495.1

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 January 1, 2022, at least ten dollars fifty cents (\$10.50) an
2 hour;

3 (4) beginning January 1, 2022 and prior to
4 January 1, 2023, at least eleven dollars fifty cents (\$11.50)
5 an hour; and

6 (5) on and after January 1, 2023, at least
7 twelve dollars (\$12.00) an hour.

8 ~~[B. On and after January 1, 2020, an employer who~~
9 ~~employs a student regularly enrolled in secondary school to~~
10 ~~work after school hours or when school is not in session shall~~
11 ~~pay the student a minimum wage rate of at least eight dollars~~
12 ~~fifty cents (\$8.50) an hour unless the student is employed~~
13 ~~pursuant to Subsection D of this section, in which case the~~
14 ~~provisions of that subsection shall apply to the student. In~~
15 ~~each case, the employer shall follow the provisions of the~~
16 ~~Child Labor Act, and Subsection E of this section shall not~~
17 ~~apply to the student.~~

18 ~~G.]~~ B. An employer furnishing food, utilities,
19 supplies or housing to an employee who is engaged in
20 agriculture may deduct the reasonable value of such furnished
21 items from any wages due to the employee.

22 ~~[D.]~~ C. An employee who customarily and regularly
23 receives more than thirty dollars (\$30.00) a month in tips
24 shall be paid a minimum hourly wage as follows:

25 (1) prior to January 1, 2020, at least two

.218495.1

underscoring material = new
[bracketed material] = delete

1 dollars thirteen cents (\$2.13) an hour;

2 (2) beginning January 1, 2020 and prior to
3 January 1, 2021, at least two dollars thirty-five cents (\$2.35)
4 an hour;

5 (3) beginning January 1, 2021 and prior to
6 January 1, 2022, at least two dollars fifty-five cents (\$2.55)
7 an hour;

8 (4) beginning January 1, 2022 and prior to
9 January 1, 2023, at least two dollars eighty cents (\$2.80) an
10 hour;

11 (5) on and after January 1, 2023, at least
12 three dollars (\$3.00) an hour; and

13 (6) the employer may consider tips as part of
14 wages, but the tips combined with the employer's cash wage
15 shall not equal less than the minimum wage rate as provided in
16 Subsection A of this section. All tips received by such
17 employees shall be retained by the employee, except that
18 nothing in this section shall prohibit the pooling of tips
19 among wait staff.

20 ~~[E.]~~ D. An employee shall not be required to work
21 more than forty hours in any week of seven days, unless the
22 employee is paid one and one-half times the employee's regular
23 hourly rate of pay for all hours worked in excess of forty
24 hours. For an employee who is paid a fixed salary for
25 fluctuating hours and who is employed by an employer a majority

.218495.1

underscored material = new
~~[bracketed material]~~ = delete

1 of whose business in New Mexico consists of providing
2 investigative services to the federal government, the hourly
3 rate may be calculated in accordance with the provisions of the
4 federal Fair Labor Standards Act of 1938 and the regulations
5 pursuant to that act; provided that in no case shall the hourly
6 rate be less than the federal minimum wage."

7 - 4 -
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25