

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 90**

**Senators Thomas, Craig**

**Cosponsors: Senators Antonio, Williams, Fedor**

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**A BILL**

To amend sections 4111.02, 4111.09, and 4111.14 and  
to repeal section 4111.07 of the Revised Code to  
increase the state minimum wage and to allow  
municipalities, townships, and counties to  
establish higher minimum wage requirements.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4111.02, 4111.09, and 4111.14 of  
the Revised Code be amended to read as follows:

**Sec. 4111.02.** ~~Every (A) (1) Except as provided in divisions~~  
~~(A) (2) and (C) of this section, every employer, as defined in~~  
Section 34a of Article II, Ohio Constitution, shall pay each of  
the employer's employees at a wage rate of not less than ~~the~~  
~~wage rate specified in Section 34a of Article II, Ohio~~  
~~Constitution~~ the following wage rates:

(a) During the period beginning January 1, 2020, and  
ending December 31, 2020, twelve dollars per hour;

(b) During the period beginning January 1, 2021, and  
ending December 31, 2021, thirteen dollars per hour;

(c) During the period beginning January 1, 2022, and 18  
ending December 31, 2022, fourteen dollars per hour; 19

(d) Beginning January 1, 2023, fifteen dollars per hour. 20

(2) If an employer is able to demonstrate that an employee 21  
receives tips that combined with the wages paid by the employer 22  
are equal to or greater than the minimum wage rate for all hours 23  
worked, the employer may pay the employee at a rate of less 24  
than, but not less than half, the minimum wage rate required by 25  
division (A) (1) of this section. 26

~~The~~ (B) On September 30, 2023, and every thirtieth day of 27  
September thereafter, the director of commerce annually shall 28  
adjust the wage rate as specified in division (A) (1) (g) of this 29  
section in accordance with Section 34a of Article II, Ohio 30  
Constitution. The adjusted wage rate takes effect on the first 31  
day of January immediately following the date of the adjustment. 32

~~No political subdivision shall~~ (C) A municipal 33  
corporation, township, or county may establish within the 34  
jurisdiction of the municipal corporation, township, or county a 35  
minimum wage rate different from that exceeds the wage rate 36  
required under this section. Notwithstanding division (M) of 37  
section 302.13 and division (D) of section 504.04 of the Revised 38  
Code, an employer who is subject to more than one minimum wage 39  
requirement shall pay each of the employer's employees the 40  
highest minimum wage to which the employer is subject. 41

(D) As used in this section, "employee" has the same 42  
meaning as in section 4111.14 of the Revised Code. 43

**Sec. 4111.09.** Every employer subject to sections 4111.01 44  
to 4111.17 of the Revised Code, or to any rules issued 45  
thereunder, shall keep a summary of the sections, approved by 46

the director of commerce, and copies of any applicable rules 47  
issued thereunder, or a summary of the rules, posted in a 48  
conspicuous and accessible place in or about the premises 49  
wherein any person subject thereto is employed. The director of 50  
commerce shall make the summary described in this section 51  
available on the web site of the department of commerce. The 52  
director shall update this summary as necessary, but not less 53  
than annually, in order to reflect changes in the minimum wage 54  
rate as required under Section 34a of Article II, Ohio 55  
Constitution and section 4111.02 of the Revised Code. Employees 56  
and employers shall be furnished copies of the summaries and 57  
rules by the state, on request, without charge. 58

**Sec. 4111.14.** (A) Pursuant to the general assembly's 59  
authority to establish a minimum wage under Section 34 of 60  
Article II, Ohio Constitution, this section is in implementation 61  
of Section 34a of Article II, Ohio Constitution. In implementing 62  
Section 34a of Article II, Ohio Constitution, the general 63  
assembly hereby finds that the purpose of Section 34a of Article 64  
II, Ohio Constitution, is to: 65

(1) Ensure that Ohio employees, as defined in division (B) 66  
(1) of this section, are paid the wage rate required by section 67  
4111.02 of the Revised Code in accordance with Section 34a of 68  
Article II, Ohio Constitution; 69

(2) Ensure that covered Ohio employers maintain certain 70  
records that are directly related to the enforcement of the wage 71  
rate requirements ~~in of~~ Section 34a of Article II, Ohio 72  
Constitution, and section 4111.02 of the Revised Code; 73

(3) Ensure that Ohio employees who are paid the wage rate 74  
required by ~~Section 34a of Article II, Ohio Constitution~~ section 75  
4111.02 of the Revised Code, may enforce their right to receive 76

that wage rate in the manner set forth in Section 34a of Article 77  
II, Ohio Constitution; and 78

(4) Protect the privacy of Ohio employees' pay and 79  
personal information specified in Section 34a of Article II, 80  
Ohio Constitution, by restricting an employee's access, and 81  
access by a person acting on behalf of that employee, to the 82  
employee's own pay and personal information. 83

(B) In accordance with Section 34a of Article II, Ohio 84  
Constitution, the terms "employer," "employee," "employ," 85  
"person," and "independent contractor" have the same meanings as 86  
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 87  
U.S.C. 203, as amended. In construing the meaning of these 88  
terms, due consideration and great weight shall be given to the 89  
United States department of labor's and federal courts' 90  
interpretations of those terms under the Fair Labor Standards 91  
Act and its regulations. As used in division (B) of this 92  
section: 93

(1) "Employee" means individuals employed in Ohio, but 94  
does not mean individuals who are excluded from the definition 95  
of "employee" under 29 U.S.C. 203(e) or individuals who are 96  
exempted from the minimum wage requirements in 29 U.S.C. 213 and 97  
from the definition of "employee" in this chapter. 98

(2) "Employ" and "employee" do not include any person 99  
acting as a volunteer. In construing who is a volunteer, 100  
"volunteer" shall have the same meaning as in sections 553.101 101  
to 553.106 of Title 29 of the Code of Federal Regulations, as 102  
amended, and due consideration and great weight shall be given 103  
to the United States department of labor's and federal courts' 104  
interpretations of the term "volunteer" under the Fair Labor 105  
Standards Act and its regulations. 106

(3) "Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1.

(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, or section 4111.02 of the Revised Code to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment. In issuing such licenses, the state shall abide by the rules adopted pursuant to section 4111.06 of the Revised Code.

(D) (1) In accordance with Section 34a of Article II, Ohio Constitution, individuals employed in or about the property of an employer or an individual's residence on a casual basis are not included within the coverage of Section 34a of Article II, Ohio Constitution. As used in division (D) of this section:

(a) "Casual basis" means employment that is irregular or intermittent and that is not performed by an individual whose vocation is to be employed in or about the property of the employer or individual's residence. In construing who is employed on a "casual basis," due consideration and great weight shall be given to the United States department of labor's and

federal courts' interpretations of the term "casual basis" under 137  
the Fair Labor Standards Act and its regulations. 138

(b) "An individual employed in or about the property of an 139  
employer or individual's residence" means an individual employed 140  
on a casual basis or an individual employed in or about a 141  
residence on a casual basis, respectively. 142

(2) In accordance with Section 34a of Article II, Ohio 143  
Constitution, employees of a solely family-owned and operated 144  
business who are family members of an owner are not included 145  
within the coverage of Section 34a of Article II, Ohio 146  
Constitution. As used in division (D)(2) of this section, 147  
"family member" means a parent, spouse, child, stepchild, 148  
sibling, grandparent, grandchild, or other member of an owner's 149  
immediate family. 150

(E) In accordance with Section 34a of Article II, Ohio 151  
Constitution, an employer shall at the time of hire provide an 152  
employee with the employer's name, address, telephone number, 153  
and other contact information and update such information when 154  
it changes. As used in division (E) of this section: 155

(1) "Other contact information" may include, where 156  
applicable, the address of the employer's internet site on the 157  
world wide web, the employer's electronic mail address, fax 158  
number, or the name, address, and telephone number of the 159  
employer's statutory agent. "Other contact information" does not 160  
include the name, address, telephone number, fax number, 161  
internet site address, or electronic mail address of any 162  
employee, shareholder, officer, director, supervisor, manager, 163  
or other individual employed by or associated with an employer. 164

(2) "When it changes" means that the employer shall 165

provide its employees with the change in its name, address, 166  
telephone number, or other contact information within sixty 167  
business days after the change occurs. The employer shall 168  
provide the changed information by using any of its usual 169  
methods of communicating with its employees, including, but not 170  
limited to, listing the change on the employer's internet site 171  
on the world wide web, internal computer network, or a bulletin 172  
board where it commonly posts employee communications or by 173  
insertion or inclusion with employees' paychecks or pay stubs. 174

(F) In accordance with Section 34a of Article II, Ohio 175  
Constitution, an employer shall maintain a record of the name, 176  
address, occupation, pay rate, hours worked for each day worked, 177  
and each amount paid an employee for a period of not less than 178  
three years following the last date the employee was employed by 179  
that employer. As used in division (F) of this section: 180

(1) "Address" means an employee's home address as 181  
maintained in the employer's personnel file or personnel 182  
database for that employee. 183

(2) (a) With respect to employees who are not exempt from 184  
the overtime pay requirements of the Fair Labor Standards Act or 185  
this chapter, "pay rate" means an employee's base rate of pay. 186

(b) With respect to employees who are exempt from the 187  
overtime pay requirements of the Fair Labor Standards Act or 188  
this chapter, "pay rate" means an employee's annual base salary 189  
or other rate of pay by which the particular employee qualifies 190  
for that exemption under the Fair Labor Standards Act or this 191  
chapter, but does not include bonuses, stock options, 192  
incentives, deferred compensation, or any other similar form of 193  
compensation. 194

(3) "Record" means the name, address, occupation, pay rate, hours worked for each day worked, and each amount paid an employee in one or more documents, databases, or other paper or electronic forms of record-keeping maintained by an employer. No one particular method or form of maintaining such a record or records is required under this division. An employer is not required to create or maintain a single record containing only the employee's name, address, occupation, pay rate, hours worked for each day worked, and each amount paid an employee. An employer shall maintain a record or records from which the employee or person acting on behalf of that employee could reasonably review the information requested by the employee or person.

An employer is not required to maintain the records specified in division (F) (3) of this section for any period before January 1, 2007. On and after January 1, 2007, the employer shall maintain the records required by division (F) (3) of this section for three years from the date the hours were worked by the employee and for three years after the date the employee's employment ends.

(4) (a) Except for individuals specified in division (F) (4) (b) of this section, "hours worked for each day worked" means the total amount of time worked by an employee in whatever increments the employer uses for its payroll purposes during a day worked by the employee. An employer is not required to keep a record of the time of day an employee begins and ends work on any given day. As used in division (F) (4) of this section, "day" means a fixed period of twenty-four consecutive hours during which an employee performs work for an employer.

(b) An employer is not required to keep records of "hours



worked for each day worked" for individuals for whom the 225  
employer is not required to keep those records under the Fair 226  
Labor Standards Act and its regulations or individuals who are 227  
not subject to the overtime pay requirements specified in 228  
section 4111.03 of the Revised Code. 229

(5) "Each amount paid an employee" means the total gross 230  
wages paid to an employee for each pay period. As used in 231  
division (F) (5) of this section, "pay period" means the period 232  
of time designated by an employer to pay an employee the 233  
employee's gross wages in accordance with the employer's payroll 234  
practices under section 4113.15 of the Revised Code. 235

(G) In accordance with Section 34a of Article II, Ohio 236  
Constitution, an employer must provide such information without 237  
charge to an employee or person acting on behalf of an employee 238  
upon request. As used in division (G) of this section: 239

(1) "Such information" means the name, address, 240  
occupation, pay rate, hours worked for each day worked, and each 241  
amount paid for the specific employee who has requested that 242  
specific employee's own information and does not include the 243  
name, address, occupation, pay rate, hours worked for each day 244  
worked, or each amount paid of any other employee of the 245  
employer. "Such information" does not include hours worked for 246  
each day worked by individuals for whom an employer is not 247  
required to keep that information under the Fair Labor Standards 248  
Act and its regulations or individuals who are not subject to 249  
the overtime pay requirements specified in section 4111.03 of 250  
the Revised Code. 251

(2) "Acting on behalf of an employee" means a person 252  
acting on behalf of an employee as any of the following: 253

(a) The certified or legally recognized collective 254  
bargaining representative for that employee under the applicable 255  
federal law or Chapter 4117. of the Revised Code; 256

(b) The employee's attorney; 257

(c) The employee's parent, guardian, or legal custodian. 258

A person "acting on behalf of an employee" must be 259  
specifically authorized by an employee in order to make a 260  
request for that employee's own name, address, occupation, pay 261  
rate, hours worked for each day worked, and each amount paid to 262  
that employee. 263

(3) "Provide" means that an employer shall provide the 264  
requested information within thirty business days after the date 265  
the employer receives the request, unless either of the 266  
following occurs: 267

(a) The employer and the employee or person acting on 268  
behalf of the employee agree to some alternative time period for 269  
providing the information. 270

(b) The thirty-day period would cause a hardship on the 271  
employer under the circumstances, in which case the employer 272  
must provide the requested information as soon as practicable. 273

(4) A "request" made by an employee or a person acting on 274  
behalf of an employee means a request by an employee or a person 275  
acting on behalf of an employee for the employee's own 276  
information. The employer may require that the employee provide 277  
the employer with a written request that has been signed by the 278  
employee and notarized and that reasonably specifies the 279  
particular information being requested. The employer may require 280  
that the person acting on behalf of an employee provide the 281  
employer with a written request that has been signed by the 282

employee whose information is being requested and notarized and 283  
that reasonably specifies the particular information being 284  
requested. 285

(H) In accordance with Section 34a of Article II, Ohio 286  
Constitution, an employee, person acting on behalf of one or 287  
more employees, and any other interested party may file a 288  
complaint with the state for a violation of any provision of 289  
Section 34a of Article II, Ohio Constitution, or any law or 290  
regulation implementing its provisions. Such complaint shall be 291  
promptly investigated and resolved by the state. The employee's 292  
name shall be kept confidential unless disclosure is necessary 293  
to resolution of a complaint and the employee consents to 294  
disclosure. As used in division (H) of this section: 295

(1) "Complaint" means a complaint of an alleged violation 296  
pertaining to harm suffered by the employee filing the 297  
complaint, by a person acting on behalf of one or more 298  
employees, or by an interested party. 299

(2) "Acting on behalf of one or more employees" has the 300  
same meaning as "acting on behalf of an employee" in division 301  
(G) (2) of this section. Each employee must provide a separate 302  
written and notarized authorization before the person acting on 303  
that employee's or those employees' behalf may request the name, 304  
address, occupation, pay rate, hours worked for each day worked, 305  
and each amount paid for the particular employee. 306

(3) "Interested party" means a party who alleges to be 307  
injured by the alleged violation and who has standing to file a 308  
complaint under common law principles of standing. 309

(4) "Resolved by the state" means that the complaint has 310  
been resolved to the satisfaction of the state. 311

(5) "Shall be kept confidential" means that the state 312  
shall keep the name of the employee confidential as required by 313  
division (H) of this section. 314

(I) In accordance with Section 34a of Article II, Ohio 315  
Constitution, the state may on its own initiative investigate an 316  
employer's compliance with Section 34a of Article II, Ohio 317  
Constitution, and any law or regulation implementing Section 34a 318  
of Article II, Ohio Constitution. The employer shall make 319  
available to the state any records related to such investigation 320  
and other information required for enforcement of Section 34a of 321  
Article II, Ohio Constitution or any law or regulation 322  
implementing Section 34a of Article II, Ohio Constitution. The 323  
state shall investigate an employer's compliance with this 324  
section in accordance with the procedures described in section 325  
4111.04 of the Revised Code. All records and information related 326  
to investigations by the state are confidential and are not a 327  
public record subject to section 149.43 of the Revised Code. 328  
This division does not prevent the state from releasing to or 329  
exchanging with other state and federal wage and hour regulatory 330  
authorities information related to investigations. 331

(J) In accordance with Section 34a of Article II, Ohio 332  
Constitution, damages shall be calculated as an additional two 333  
times the amount of the back wages and in the case of a 334  
violation of an anti-retaliation provision an amount set by the 335  
state or court sufficient to compensate the employee and deter 336  
future violations, but not less than one hundred fifty dollars 337  
for each day that the violation continued. The "not less than 338  
one hundred fifty dollar" penalty specified in division (J) of 339  
this section shall be imposed only for violations of the anti- 340  
retaliation provision in Section 34a of Article II, Ohio 341  
Constitution. 342

(K) In accordance with Section 34a of Article II, Ohio 343  
Constitution, an action for equitable and monetary relief may be 344  
brought against an employer by the attorney general and/or an 345  
employee or person acting on behalf of an employee or all 346  
similarly situated employees in any court of competent 347  
jurisdiction, including the court of common pleas of an 348  
employee's county of residence, for any violation of Section 34a 349  
of Article II, Ohio Constitution, or any law or regulation 350  
implementing its provisions within three years of the violation 351  
or of when the violation ceased if it was of a continuing 352  
nature, or within one year after notification to the employee of 353  
final disposition by the state of a complaint for the same 354  
violation, whichever is later. 355

(1) As used in division (K) of this section, 356  
"notification" means the date on which the notice was sent to 357  
the employee by the state. 358

(2) No employee shall join as a party plaintiff in any 359  
civil action that is brought under division (K) of this section 360  
by an employee, person acting on behalf of an employee, or 361  
person acting on behalf of all similarly situated employees 362  
unless that employee first gives written consent to become such 363  
a party plaintiff and that consent is filed with the court in 364  
which the action is brought. 365

(3) A civil action regarding an alleged violation of this 366  
section shall be maintained only under division (K) of this 367  
section. This division does not preclude the joinder in a single 368  
civil action of an action under this division and an action 369  
under section 4111.10 of the Revised Code. 370

(4) Any agreement between an employee and employer to work 371  
for less than the wage rate specified in ~~Section 34a of Article~~ 372

~~II, Ohio Constitution section 4111.02 of the Revised Code,~~ is no 373  
defense to an action under this section. 374

(L) In accordance with Section 34a of Article II, Ohio 375  
Constitution, there shall be no exhaustion requirement, no 376  
procedural, pleading, or burden of proof requirements beyond 377  
those that apply generally to civil suits in order to maintain 378  
such action and no liability for costs or attorney's fees on an 379  
employee except upon a finding that such action was frivolous in 380  
accordance with the same standards that apply generally in civil 381  
suits. Nothing in division (L) of this section affects the right 382  
of an employer and employee to agree to submit a dispute under 383  
this section to alternative dispute resolution, including, but 384  
not limited to, arbitration, in lieu of maintaining the civil 385  
suit specified in division (K) of this section. Nothing in this 386  
division limits the state's ability to investigate or enforce 387  
this section. 388

(M) An employer who provides such information specified in 389  
Section 34a of Article II, Ohio Constitution, shall be immune 390  
from any civil liability for injury, death, or loss to person or 391  
property that otherwise might be incurred or imposed as a result 392  
of providing that information to an employee or person acting on 393  
behalf of an employee in response to a request by the employee 394  
or person, and the employer shall not be subject to the 395  
provisions of Chapters 1347. and 1349. of the Revised Code to 396  
the extent that such provisions would otherwise apply. As used 397  
in division (M) of this section, "such information," "acting on 398  
behalf of an employee," and "request" have the same meanings as 399  
in division (G) of this section. 400

(N) As used in this section, "the state" means the 401  
director of commerce. 402

<b>Section 2.</b> That existing sections 4111.02, 4111.09, and	403
4111.14 of the Revised Code are hereby repealed.	404
<b>Section 3.</b> That section 4111.07 of the Revised Code is	405
hereby repealed.	406