

JAN 25 2017

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# A BILL FOR AN ACT

RELATING TO WAGE AND HOUR LAW.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 387-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "employee" to read as  
3 follows:

4           "Employee" includes any individual employed by an  
5 employer, but shall not include any individual employed:

6           (1) At a guaranteed compensation totaling [~~\$2,000 or more~~  
7 ~~a month,~~] a monthly minimum of the amount of the  
8 applicable minimum wage under section 387-2 multiplied  
9 by two hundred ninety-two, whether paid weekly,  
10 biweekly, or monthly;

11           (2) In agriculture for any workweek in which the employer  
12 of the individual employs less than twenty employees  
13 or in agriculture for any workweek in which the  
14 individual is engaged in coffee harvesting;

15           (3) In or about the home of the individual's employer:

16           (A) In domestic service on a casual basis; or



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- 1 (B) Providing companionship services for the aged or  
2 infirm;
- 3 (4) As a house parent in or about any home or shelter  
4 maintained for child welfare purposes by a charitable  
5 organization exempt from income tax under section 501  
6 of the federal Internal Revenue Code;
- 7 (5) By the individual's brother, sister, brother-in-law,  
8 sister-in-law, son, daughter, spouse, parent, or  
9 parent-in-law;
- 10 (6) In a bona fide executive, administrative, supervisory,  
11 or professional capacity or in the capacity of outside  
12 salesperson or as an outside collector;
- 13 (7) In the propagating, catching, taking, harvesting,  
14 cultivating, or farming of any kind of fish,  
15 shellfish, crustacean, sponge, seaweed, or other  
16 aquatic forms of animal or vegetable life, including  
17 the going to and returning from work and the loading  
18 and unloading of such products prior to first  
19 processing;
- 20 (8) On a ship or vessel and who has a Merchant Mariners  
21 Document issued by the United States Coast Guard;



1           (9) As a driver of a vehicle carrying passengers for hire  
2           operated solely on call from a fixed stand;  
3       ~~[(10) As a golf caddy;~~  
4       ~~(11)]~~ (10) By a nonprofit school during the time such  
5           individual is a student attending such school;  
6       ~~[(12)]~~ (11) In any capacity if by reason of the employee's  
7           employment in such capacity and during the term  
8           thereof the minimum wage which may be paid the  
9           employee or maximum hours which the employee may work  
10          during any workweek without the payment of overtime,  
11          are prescribed by the federal Fair Labor Standards Act  
12          of 1938, as amended, or as the same may be further  
13          amended from time to time; provided that if the  
14          minimum wage which may be paid the employee under the  
15          Fair Labor Standards Act for any workweek is less than  
16          the minimum wage prescribed by section 387-2, then  
17          section 387-2 shall apply in respect to the employees  
18          for such workweek; provided further that if the  
19          maximum workweek established for the employee under  
20          the Fair Labor Standards Act for the purposes of  
21          overtime compensation is higher than the maximum



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1 workweek established under section 387-3, then section  
 2 387-3 shall apply in respect to such employee for such  
 3 workweek; except that the employee's regular rate in  
 4 such an event shall be the employee's regular rate as  
 5 determined under the Fair Labor Standards Act; or  
 6 ~~[(13)]~~ (12) As a seasonal youth camp staff member in a  
 7 resident situation in a youth camp sponsored by  
 8 charitable, religious, or nonprofit organizations  
 9 exempt from income tax under section 501 of the  
 10 federal Internal Revenue Code or in a youth camp  
 11 accredited by the American Camping Association~~[+ or]~~.  
 12 ~~[(14)]~~ ~~As an automobile salesperson primarily engaged in the~~  
 13 ~~selling of automobiles or trucks if employed by an~~  
 14 ~~automobile or truck dealer licensed under chapter~~  
 15 ~~437.] "~~

16 SECTION 2. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect on July 1, 2017.

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INTRODUCED BY: ~~AND~~ C. F. [Signature]  
Kal Rhoads



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**Report Title:**

Wage and Hour Law; Minimum Compensation Exemption

**Description:**

Increases the amount of guaranteed monthly compensation required to exempt an individual from minimum wage, overtime, and record keeping requirements under the Hawaii wage and hour law.

Establishes a formula for calculation of the guaranteed monthly compensation that ties the guaranteed monthly compensation to the applicable minimum wage. Removes exemptions for automobile salespersons and golf caddies from the wage and hour law.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

