
A BILL FOR AN ACT

RELATING TO THE WAGE AND HOUR LAW.

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

1 SECTION 1. The legislature finds that the Fair Labor
2 Standards Act and Hawaii's wage and hour law were enacted to
3 protect the health, efficiency, and general well-being of
4 workers by prescribing minimum wage and overtime rates as well
5 as employer recordkeeping provisions.

6 Federal and state laws provide some exemptions that are
7 similar, such as the narrow exemptions in title 29 Code of
8 Federal Regulations part 541 (Defining and Delimiting the
9 Exemptions for Executive, Administrative, Professional, Computer
10 and Outside Sales Employees) for certain employees, including
11 those employed in bona fide executive, administrative, and
12 professional capacities. Hawaii's corresponding law, chapter
13 387, Hawaii Revised Statutes, provides similar exemptions that
14 include those employed in bona fide executive, administrative,
15 and professional capacities.

16 However, Hawaii's law also exempts any employee paid at a
17 guaranteed compensation of \$2,000 or more a month. These



1 workers are not protected by minimum wage and overtime rates and
2 their employers are not subject to the recordkeeping provisions
3 of Hawaii's wage and hour law.

4 Accordingly, the purpose of this Act is to amend the
5 definition of "employee" in Hawaii's wage and hour law by
6 repealing the definition's categorical exclusion of any employee
7 who receives guaranteed compensation totaling \$2,000 or more a
8 month.

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

12 ""Employee" includes any individual employed by an
13 employer, but shall not include any individual employed:

14 (1) [~~At a guaranteed compensation totaling \$2,000 or more~~
15 ~~a month, whether paid weekly, biweekly, or monthly,~~

16 ~~(2)] In agriculture for any workweek in which the employer
17 of the individual employs less than twenty employees
18 or in agriculture for any workweek in which the
19 individual is engaged in coffee harvesting;~~

20 ~~[-(3)]~~ (2) In or about the home of the individual's
21 employer:



- 1 (A) In domestic service on a casual basis; or
- 2 (B) Providing companionship services for the aged or
- 3 infirm;
- 4 ~~[-(4)-]~~ (3) As a house parent in or about any home or shelter
- 5 maintained for child welfare purposes by a charitable
- 6 organization exempt from income tax under section 501
- 7 of the federal Internal Revenue Code;
- 8 ~~[-(5)-]~~ (4) By the individual's [~~brother, sister, brother in-~~
- 9 ~~law, sister in law, son, daughter,~~] sibling,
- 10 sibling-in-law, child, spouse, parent, or
- 11 parent-in-law;
- 12 ~~[-(6)-]~~ (5) In a bona fide executive, administrative,
- 13 supervisory, or professional capacity or in the
- 14 capacity of outside salesperson or as an outside
- 15 collector;
- 16 ~~[-(7)-]~~ (6) In the propagating, catching, taking, harvesting,
- 17 cultivating, or farming of any kind of fish,
- 18 shellfish, crustacean, sponge, seaweed, or other
- 19 aquatic forms of animal or vegetable life, including
- 20 the going to and returning from work and the loading



1 and unloading of [~~such~~] those products [~~prior to~~]
2 before first processing;

3 [~~(8)~~] (7) On a ship or vessel and who has a Merchant
4 Mariners Document issued by the United States Coast
5 Guard;

6 [~~(9)~~] (8) As a driver of a vehicle carrying passengers for
7 hire operated solely on call from a fixed stand;

8 [~~(10)~~] (9) As a golf caddy;

9 [~~(11)~~] (10) By a nonprofit school during the time [~~such~~]
10 that the individual is a student attending [~~such~~] the
11 school;

12 [~~(12)~~] (11) In any capacity if by reason of the employee's
13 employment, in [~~such~~] that capacity and during the
14 term thereof, the minimum wage [~~which~~] that may be
15 paid to the employee or maximum hours [~~which~~] that the
16 employee may work during any workweek without the
17 payment of overtime, are prescribed by the federal
18 Fair Labor Standards Act of 1938, as amended, or as
19 the same may be further amended from time to time;
20 provided that if the minimum wage [~~which~~] that may be
21 paid to the employee under the Fair Labor Standards



1 Act for any workweek is less than the minimum wage
2 prescribed by section 387-2, then section 387-2 shall
3 apply in respect to the ~~[employees]~~ employee for
4 ~~[such]~~ that workweek; provided further that if the
5 maximum workweek established for the employee under
6 the Fair Labor Standards Act for the purposes of
7 overtime compensation is higher than the maximum
8 workweek established under section 387-3, then
9 section 387-3 shall apply in respect to ~~[such]~~ the
10 employee for ~~[such]~~ that workweek; except that the
11 employee's regular rate in ~~[such-an]~~ that event shall
12 be the employee's regular rate as determined under the
13 Fair Labor Standards Act;

14 ~~[(13)]~~ (12) As a seasonal youth camp staff member in a
15 resident situation in a youth camp sponsored by
16 charitable, religious, or nonprofit organizations
17 exempt from income tax under section 501 of the
18 federal Internal Revenue Code or in a youth camp
19 accredited by the American Camping Association; or

20 ~~[(14)]~~ (13) As an automobile salesperson primarily engaged
21 in the selling of automobiles or trucks if employed by



1 an automobile or truck dealer licensed under chapter
2 437."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on June 30, 3000.



Report Title:

Wage and Hour Law; Employee; Guaranteed Compensation; Employer Recordkeeping

Description:

Amends the definition of "employee" in Hawaii's wage and hour law by repealing the definition's categorical exclusion of any employee who receives guaranteed compensation totaling \$2,000 or more a month. Effective 6/30/3000. (SD2)

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

