

---

---

# 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. 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, whether paid weekly, biweekly, or monthly;~~

8 ~~(2)] In agriculture for any workweek in which the employer~~

9 of the individual employs less than twenty employees

10 or in agriculture for any workweek in which the

11 individual is engaged in coffee harvesting;

12 ~~(3)] (2) In or about the home of the individual's~~

13 employer:

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

15 (B) Providing companionship services for the aged or

16 infirm;



1        [~~(4)~~] (3) As a house parent in or about any home or shelter  
2                    maintained for child welfare purposes by a charitable  
3                    organization exempt from income tax under section 501  
4                    of the federal Internal Revenue Code;

5        [~~(5)~~] (4) By the individual's [~~brother, sister, brother-in-~~  
6                    ~~law, sister-in-law, son, daughter,~~] sibling,  
7                    sibling-in-law, child, spouse, parent, or  
8                    parent-in-law;

9        [~~(6)~~] (5) In a bona fide executive, administrative,  
10                    supervisory, or professional capacity or in the  
11                    capacity of outside salesperson or as an outside  
12                    collector;

13        [~~(7)~~] (6) 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~~] those products [~~prior to~~]  
19                    before first processing;



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



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

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

18 [+14+] (13) As an automobile salesperson primarily engaged  
19 in the selling of automobiles or trucks if employed by  
20 an automobile or truck dealer licensed under  
21 chapter 437."



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

3 SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

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

**Description:**

Repeals the categorical exclusion of employees who receive a guaranteed compensation totaling \$2,000 or more a month from the protections under Hawaii's Wage and Hour Law. Takes effect 7/1/2050. (SD1)

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

