

ACT 43

S.B. NO. 2787

A Bill for an Act Relating to the Wage and Hour Law.

Be It Enacted by the Legislature of the State of Hawaii:

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

““Employee” includes any individual employed by an employer, but shall not include any individual employed:

- (1) At a guaranteed compensation totaling [~~\$1,250~~] \$2,000 or more a month, whether paid weekly, biweekly, or monthly;
- (2) In agriculture for any workweek in which the employer of the individual employs less than twenty employees or in agriculture for any workweek in which the individual is engaged in coffee harvesting;
- (3) In domestic service in or about the home of the individual’s employer or as a house parent in or about any home or shelter maintained for child welfare purposes by a charitable organization exempt from income tax under section 501 of the federal Internal Revenue Code;
- (4) By the individual’s brother, sister, brother-in-law, sister-in-law, son, daughter, spouse, parent, or parent-in-law;
- (5) In a bona fide executive, administrative, supervisory, or professional capacity or in the capacity of outside salesperson or as an outside collector;
- (6) In the propagating, catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, [~~crustacea,—sponges,—seaweeds,~~] crustacean, sponge, seaweed, or other aquatic forms of animal or vegetable life, including the going to and returning from work and the loading and unloading of such products prior to first processing;
- (7) As a seaman;

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- (8) As a driver of a vehicle carrying passengers for hire operated solely on call from a fixed stand;
- (9) As a golf caddy;
- (10) By a nonprofit school during the time such individual is a student attending such school;
- (11) In any capacity if by reason of the employee's employment in such capacity and during the term thereof the minimum wage which may be paid the employee or maximum hours which the employee may work during any workweek without the payment of overtime, are prescribed by the federal Fair Labor Standards Act of 1938, as amended, or as the same may be further amended from time to time; provided that if the minimum wage which may be paid the employee under the Fair Labor Standards Act for any workweek is less than the minimum wage prescribed by section 387-2, then section 387-2 shall apply in respect to the employees for such workweek; provided further that if the maximum workweek established for the employee under the Fair Labor Standards Act for the purposes of overtime compensation is higher than the maximum workweek established under section 387-3, then section 387-3 shall apply in respect to such employee for such workweek; except that the employee's regular rate in such an event shall be the employee's regular rate as determined under the Fair Labor Standards Act;
- (12) As a seasonal youth camp staff member in a resident situation in a youth camp sponsored by charitable, religious, or nonprofit organizations exempt from income tax under section 501 of the federal Internal Revenue Code or in a youth camp accredited by the American Camping Association; or
- (13) As an automobile salesperson primarily engaged in the selling of automobiles or trucks if employed by an automobile or truck dealer licensed under chapter 437."

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

SECTION 3. This Act shall take effect upon approval.

(Approved April 23, 2002.)