

# SENATE BILL 940

K3, P4

6lr3021  
CF 6lr3650

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By: **Senators Madaleno, Manno, McFadden, and Raskin**

Introduced and read first time: February 5, 2016

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Payment of Wages – Minimum Wage and Repeal of Tip**  
3 **Credit**

4 FOR the purpose of specifying the State minimum wage rate that is in effect for certain  
5 time periods; increasing, except under certain circumstances, the State minimum  
6 wage rate in effect for certain periods of time based on the annual growth in the  
7 Consumer Price Index; requiring the Commissioner of Labor and Industry, annually  
8 beginning on a certain date, to determine and announce the growth in the Consumer  
9 Price Index, if any, and the new State minimum wage rate; defining a certain term;  
10 repealing the authority of an employer to include, as part of an employee's wage, a  
11 certain amount to represent the tips of the employee; and generally relating to the  
12 payment of wages.

13 BY repealing and reenacting, with amendments,  
14 Article – Labor and Employment  
15 Section 3–413  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume and 2015 Supplement)

18 BY repealing  
19 Article – Labor and Employment  
20 Section 3–419  
21 Annotated Code of Maryland  
22 (2008 Replacement Volume and 2015 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
24 That the Laws of Maryland read as follows:

25 **Article – Labor and Employment**

26 3–413.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) **(1)** In this section[, “employer”] **THE FOLLOWING WORDS HAVE THE**  
 2 **MEANINGS INDICATED.**

3 **(2) “CONSUMER PRICE INDEX” MEANS THE CONSUMER PRICE INDEX**  
 4 **FOR ALL URBAN CONSUMERS FOR THE WASHINGTON–BALTIMORE METROPOLITAN**  
 5 **AREA OR A SUCCESSOR INDEX PUBLISHED BY THE FEDERAL BUREAU OF LABOR**  
 6 **STATISTICS.**

7 **(3) “EMPLOYER”** includes a governmental unit.

8 (b) Except as provided in subsection (d) of this section and § 3–414 of this subtitle,  
 9 each employer shall pay:

10 (1) to each employee who is subject to both the federal Act and this subtitle,  
 11 at least the greater of:

12 (i) the minimum wage for that employee under the federal Act; or

13 (ii) the State minimum wage rate set under subsection (c) of this  
 14 section; and

15 (2) each other employee who is subject to this subtitle, at least:

16 (i) the greater of:

17 1. the highest minimum wage under the federal Act; or

18 2. the State minimum wage rate set under subsection (c) of  
 19 this section; or

20 (ii) a training wage under regulations that the Commissioner adopts  
 21 that include the conditions and limitations authorized under the federal Fair Labor  
 22 Standards Amendments of 1989.

23 (c) **(1)** The State minimum wage rate is:

24 **[(1)] (I)** for the 6–month period beginning January 1, 2015, \$8.00 per  
 25 hour;

26 **[(2)] (II)** for the 12–month period beginning July 1, 2015, \$8.25 per hour;

27 **[(3)] (III)** for the 12–month period beginning July 1, 2016, **[\$8.75] \$10.10**  
 28 per hour;

1            ~~[(4)]~~ (IV) for the 12-month period beginning July 1, 2017, ~~[\$9.25]~~ **\$11.90**  
2 per hour; ~~[and]~~

3            (V) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2018,  
4 **\$13.25 PER HOUR;**

5            (VI) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019,  
6 **\$14.25 PER HOUR;**

7            ~~[(5)]~~ (VII) FOR THE 24-MONTH PERIOD beginning July 1, ~~[2018, \$10.10]~~  
8 **2020, \$15.00** per hour; AND

9            (VIII) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022, AND  
10 EACH SUBSEQUENT 12-MONTH PERIOD, THE RATE DETERMINED AND ANNOUNCED  
11 BY THE COMMISSIONER UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

12            (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS  
13 PARAGRAPH, FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022, AND EACH  
14 SUBSEQUENT 12-MONTH PERIOD, THE STATE MINIMUM WAGE RATE SHALL BE  
15 INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST CENT, THAT EQUALS THE  
16 PRODUCT OF:

17                            1. THE STATE MINIMUM WAGE RATE IN EFFECT FOR THE  
18 PRECEDING 12-MONTH PERIOD; AND

19                            2. THE AVERAGE PERCENT GROWTH IN THE CONSUMER  
20 PRICE INDEX FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD, AS  
21 DETERMINED BY THE COMMISSIONER UNDER SUBPARAGRAPH (II)1 OF THIS  
22 PARAGRAPH.

23            (II) BEGINNING MARCH 1, 2022, AND EACH SUBSEQUENT  
24 MARCH 1, THE COMMISSIONER SHALL DETERMINE AND ANNOUNCE:

25                            1. THE AVERAGE PERCENT GROWTH, IF ANY, IN THE  
26 CONSUMER PRICE INDEX BASED ON THE MOST RECENT 12-MONTH PERIOD FOR  
27 WHICH DATA IS AVAILABLE ON MARCH 1; AND

28                            2. THE STATE MINIMUM WAGE RATE EFFECTIVE FOR  
29 THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1.

30            (III) IF THERE IS A DECLINE OR NO GROWTH IN THE CONSUMER  
31 PRICE INDEX, THE STATE MINIMUM WAGE RATE SHALL REMAIN THE SAME AS THE  
32 RATE THAT WAS IN EFFECT FOR THE PRECEDING 12-MONTH PERIOD.

1 (d) (1) (i) Except as provided in paragraph (2) of this subsection and  
2 subject to subparagraph (ii) of this paragraph, an employer may pay an employee a wage  
3 that equals a rate of 85% of the State minimum wage established under this section if the  
4 employee is under the age of 20 years.

5 (ii) An employer may pay to an employee the wage provided under  
6 subparagraph (i) of this paragraph only for the first 6 months that the employee is  
7 employed.

8 (2) (i) This paragraph applies only to an employer that is an  
9 amusement or a recreational establishment, including a swimming pool, if the employer:

10 1. operates for no more than 7 months in a calendar year; or

11 2. for any 6 months during the preceding calendar year, has  
12 average receipts that do not exceed one-third of the average receipts for the other 6 months.

13 (ii) An employer may pay an employee a wage that equals the  
14 greater of:

15 1. 85% of the State minimum wage established under this  
16 section; or

17 2. \$7.25.

18 [3-419.

19 (a) (1) This section applies to each employee who:

20 (i) is engaged in an occupation in which the employee customarily  
21 and regularly receives more than \$30 each month in tips;

22 (ii) has been informed by the employer about the provisions of this  
23 section; and

24 (iii) has kept all of the tips that the employee received.

25 (2) Notwithstanding paragraph (1)(iii) of this subsection, this section does  
26 not prohibit the pooling of tips.

27 (b) Subject to the limitations in this section, an employer may include, as part of  
28 the wage of an employee to whom this section applies:

29 (1) an amount that the employer sets to represent the tips of the employee;  
30 or

1           (2) if the employee or representative of the employee satisfies the  
2 Commissioner that the employee received a lesser amount in tips, the lesser amount.

3           (c) The tip credit amount that the employer may include under subsection (b) of  
4 this section may not exceed the minimum wage established under § 3–413 of this subtitle  
5 for the employee less \$3.63.]

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
7 1, 2016.