

## CHAPTER 91D

## MINIMUM WAGE

Referred to in §84A.5, 91.4

## 91D.1 Minimum wage requirements — exceptions.

**91D.1 Minimum wage requirements — exceptions.**

1. *a.* The state hourly wage shall be at least \$6.20 as of April 1, 2007, and \$7.25 as of January 1, 2008.

*b.* Every employer, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, shall pay to each of the employer's employees, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, the state hourly wage stated in paragraph "a", or the current federal minimum wage, pursuant to 29 U.S.C. §206, as amended, whichever is greater.

*c.* For purposes of determining whether an employee of a restaurant, hotel, motel, inn, or cabin, who customarily and regularly receives more than thirty dollars a month in tips is receiving the minimum hourly wage rate prescribed by [this section](#), the amount paid the employee by the employer shall be deemed to be increased on account of the tips by an amount determined by the employer, not to exceed forty percent of the applicable minimum wage. An employee may file a written appeal with the labor commissioner if the amount of tips received by the employee is less than the amount determined by the employer under [this subsection](#).

*d.* An employer is not required to pay an employee the applicable state hourly wage provided in paragraph "a" until the employee has completed ninety calendar days of employment with the employer. An employee who has completed ninety calendar days of employment with the employer prior to April 1, 2007, or January 1, 2008, shall earn the applicable state hourly minimum wage as of that date. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least \$5.30 as of April 1, 2007, and \$6.35 as of January 1, 2008.

2. *a.* The exemptions from the minimum wage requirements stated in 29 U.S.C. §213, as amended to January 1, 2007, shall apply, except as otherwise provided in [this subsection](#).

*b.* Except as provided in paragraph "c", the minimum wage requirements set forth in [this section](#) shall not apply to an enterprise whose annual gross volume of sales made or business done, exclusive of excise taxes at the retail level which are separately stated, is less than three hundred thousand dollars.

*c.* The minimum wage requirements set forth in [this section](#) shall apply to the following without regard to gross volume of sales or business done:

(1) An enterprise engaged in the business of laundering, cleaning, or repairing clothing or fabrics.

(2) An enterprise engaged in construction or reconstruction.

(3) An enterprise engaged in the operation of a hospital; an institution primarily engaged in the care of the sick, the aged, or the mentally ill or persons who have symptoms of mental illness who reside on the premises of such institution; a school for persons with mental or physical disabilities or for gifted children; a preschool, elementary or secondary school; or an institution of higher education. This subparagraph applies regardless of whether any such described hospital, institution, or school is public or private or operated for profit or not for profit.

(4) A public agency.

3. *a.* For purposes of [this subsection](#), "franchisee" and "franchisor" mean the same as defined in [section 523H.1](#).

*b.* For purposes of [this chapter](#), a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:

(1) The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.

(2) The franchisor has been found by the labor commissioner to have exercised a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

4. For purposes of [this chapter](#), "employee" does not include an independent contractor as described in [section 85.61, subsection 11](#), paragraph "c", subparagraph (3).

5. The labor commissioner shall adopt rules to implement and administer [this section](#).

6. [This section](#) shall be enforced pursuant to [chapter 91A](#).

[89 Acts, ch 14, §1](#); [2007 Acts, ch 1, §1 – 3](#); [2008 Acts, ch 1017, §1](#); [2019 Acts, ch 21, §3, 6](#); [2020 Acts, ch 1069, §3](#)

Referred to in [§49.20, 91A.3](#)

Subsection 3 applies to work performed on or after July 1, 2019; [2019 Acts, ch 21, §6](#)

NEW subsection 4 and former subsections 4 and 5 renumbered as 5 and 6