

91D.1 Minimum wage requirements exceptions.

1. *a.* The hourly wage stated in the federal minimum wage law, pursuant to 29 U.S.C. § 206, shall be increased to \$3.85 on January 1 of 1990, \$4.25 on January 1 of 1991, and \$4.65 on January 1 of 1992.

b. Every employer, as defined in the federal Fair Labor Standards Act, shall pay to each of the employer's employees, as defined in the federal Fair Labor Standards Act, wages of not less than the current federal minimum wage, pursuant to 29 U.S.C. § 206, or the wage rate stated in paragraph "*a*", 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 minimum 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 January 1 of 1990, 1991, or 1992, shall earn the applicable hourly minimum wage. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least \$3.35 as of January 1 of 1990, \$3.85 as of January 1 of 1991, and \$4.25 as of January 1 of 1992.

2. The exemptions from the minimum wage requirements stated in 29 U.S.C. § 213 shall apply, except that the exemption in 29 U.S.C. § 213(a)(2) shall only apply to an enterprise which is comprised of one or more retail or service establishments whose annual gross volume of sales made or business done is less than sixty percent of the amount stated in 29 U.S.C. § 203(s)(2), exclusive of excise taxes at the retail level that are separately stated.

3. The labor commissioner shall adopt rules to implement and administer this section.

4. This section shall be enforced pursuant to chapter 91A.