

HOUSE BILL No. 2863

By Representatives Swenson, Frownfelter and Ruiz

2-13

9 AN ACT concerning the minimum wage and maximum hours law;
10 amending K.S.A. 44-1203 and 44-1211 and repealing the existing
11 sections.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 44-1203 is hereby amended to read as follows: 44-
15 1203. (a) Except as otherwise provided in the minimum wage and maxi-
16 mum hours law, every employer shall pay to each employee wages at a
17 rate of not less than ~~\$2.65 an hour~~. *as follows:*

18 (1) *Prior to September 1, 2008, employee wages shall be paid at a*
19 *rate of not less than \$2.65 an hour;*

20 (2) *on and after September 1, 2008, and prior to September 1, 2009,*
21 *employee wages shall be paid at a rate of not less than \$6.55 an hour; and*

22 (3) *on and after September 1, 2009, employee wages shall be paid at*
23 *a rate of not less than \$7.25 an hour.*

24 (b) In calculating such minimum wage rate, an employer may include
25 tips and gratuities received by an employee in an amount equal to not
26 more than 40% of the minimum wage rate if such tips and gratuities have
27 customarily constituted part of the remuneration of the employee and if
28 the employee concerned actually received and retained such tips and
29 gratuities. The secretary shall require each employer desiring approval of
30 an allowance for gratuities to provide substantial evidence of the amounts
31 of such gratuities on account of which the employer has taken an allow-
32 ance pursuant to this section.

33 ~~(b)~~ (c) The provisions of this section shall not apply to any employers
34 and employees who are covered under the provisions of section 6 of the
35 fair labor standards act of 1938 as amended (29 U.S.C.A. § 206), and as
36 amended by the fair labor standards amendments of 1974 and any other
37 acts amendatory thereof or supplemental thereto.

38 Sec. 2. K.S.A. 44-1211 is hereby amended to read as follows: 44-
39 1211. (a) On and after January 1, 1978, any employer who pays an em-
40 ployee less than the wages and overtime compensation to which such
41 employee is entitled, under or by virtue of K.S.A. 44-1201 to 44-1213,
42 inclusive, shall be liable to such employee affected for ~~the full~~ *triple the*
43 amount of such wages and overtime compensation, less any amount ac-

1 tually paid to such employee by the employer, and for costs and such
2 reasonable attorney fees as may be allowed by the court in an action for
3 the recovery of such wages and overtime compensation. Any agreement
4 between such employee and the employer to work for less than the ap-
5 plicable wage rate shall be no defense to such action. Such action may be
6 maintained in any court of competent jurisdiction by any one or more
7 employees for and in behalf of such employee or employees.

8 (b) On and after January 1, 1978, at the written request of any em-
9 ployee who has been paid less than the amount to which he or she is
10 entitled under the provisions of this act, the secretary may take an as-
11 signment of such wage claim in trust for the assigning employee and may
12 bring any legal action necessary to collect such claim, and the employer
13 shall be required to pay the costs and such reasonable attorneys' fees as
14 may be allowed by the court. The secretary in case of suit shall have power
15 to join various claimants against the same employer in one action.

16 Sec. 3. K.S.A. 44-1203 and 44-1211 is hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.